

NO. 05-19-00607-CV

PETER BEASLEY,

Appellant,

v.

SOCIETY OF INFORMATION
MANAGEMENT, ET. AL,

Appellees.

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IN THE 5th DISTRICT

FILED IN
5th COURT OF APPEALS
DALLAS, TEXAS

9/25/2019 7:54:53 PM

COURT OF APPEALS
LISA MATZ
Clerk

DALLAS, TEXAS

APPELLANT'S SECOND MOTION FOR REHEARING

TO THE HONORABLE JUSTICES OF SAID COURT

COMES NOW, Appellant, Peter Beasley, who files Appellant's Second Motion for Rehearing, and states the following:

1. September 13, 2019, this court Granted Beasley's first motion for rehearing, denying Beasley's motion for temporary orders. Exhibit A.

2. This second motion for rehearing is timely filed.

Rehearing Point #1: The facts are still incorrect.

Rehearing Point #2: *Drum v. Calhoun*, under the facts here, is inapplicable to deny appellant a hearing.

Rehearing Point #3: It would be an abuse of discretion to deny appellant a hearing as the Rule 12 and disqualification motion are non-frivolous, they are directly related to the vexatious litigant issue itself, and if and when granted, the entire appeal would be meritorious.

Rehearing Point #4: Under *Caperton v. A.T. Massey Coal Company* it is unconstitutional to deny appellant a hearing.

ARGUMENT AND AUTHORITIES

The Facts are Incorrect

3. With all due respect, the opinion still incorrectly states,

“This appeal challenges the order declaring appellant vexatious.”

4. It is unmistakable that this appeal was filed as an interlocutory appeal, which only could appeal the Prefiling Order – and not the designation that appellant was a vexatious litigant. The amendment is also of the Prefiling Order. Appellant’s co-pending appeal No. 05-19-01111-CV is the appeal of the designation that appellant is a vexatious litigant. The various notices from the two different appeals are attached – No. 05-19-00607-CV Original and Amended; No. 05-19-01111-CV Original. Exhibit B.

5. To avoid confusion, to simplify the issues, and to minimize the use of judicial resources, September 15, 2019, Appellant moved to consolidate both appeals as they rely on the same record.

6. Once consolidated, this appeal would be the solitary appeal of the 1) Prefiling Order, 2) the vexatious litigant designation, 3) the security amount, 4) the dismissal order, and 5) the ancillary rulings and errors leading up to the trial court’s final orders.

7. Appellant has asked that the appeals be consolidated, with a 15 day period allowed for appellant to amend his brief.

Preservation of Error

8. Respectfully, this court's reliance on *Drum v. Calhoun* is inapplicable to allow one party to proceed at will during a stay, while restricting another party. Appellant seeks to preserve error that this court has impermissibly withheld Appellant's right to seek the disqualification of opposing counsel, and has withheld the requirement that those attorneys show their authority to defend this appeal. Appellant maintains his request for a hearing on those two issues.

9. First, it is without question that a party waives their right to disqualify opposing counsel without a timely request¹. Likewise, a party must generally challenge an opposing counsel's authority in a timely fashion, and seldom would that be for the first time on appeal². See, *Air Park-Dallas Zoning Comm. v. Crow-Billingsley Airpark, Ltd.*, 109 S.W3d 900, 905 (Tex. App.-Dallas 2003, no pet.).

10. This court's reliance on *Drum v. Calhoun*; however, is misplaced in that 1) the facts in that case are inapplicable here, 2) because appellees waived any right to deny appellant hearings by seeking affirmative relief themselves during the stay, and 3) the requested hearing is directly related to the vexatious litigant issue itself and would provide a meritorious defense to the entire appeal which would escape appellate review otherwise.

¹ *Vaughn v. Walther*, 875 S.W.2d 690, 690 (Tex. 1994) (a party who fails to file its motion to disqualify opposing counsel in a timely manner waives the complaint.)

² Appellant here raised the Rule 12 and disqualification issues in the trial court.

The Use of *Drum* is Inapplicable to the Request for Temporary Orders

11. This court pointed out in Richard Drum's Third Issue that he sought to compel discovery and sought discovery sanctions *after* Calhoun's motion to declare Drum a vexatious litigant had been filed³. *Drum v. Calhoun*, 299 S.W.3d 360, 369 (Tex. App.-Dallas 2009, pet. denied). This court held that Calhoun's vexatious litigant determination should proceed a hearing on those discovery matters, and once Calhoun's motion was granted, the stay remained in place until the \$10,000 security amount was paid.

12. Likewise, the Austin court of appeals held that the automatic stay precluded an alleged vexatious litigant's right to a hearing to compel discovery. *Drake v. Willing*, 2015 Tex. App. LEXIS 9663, *7 (Tex. App.—Austin September 16, 2015). Certainly, a vexatious litigant should not be allowed to pursue discovery unrelated to the vexatious litigant determination itself without 1) holding that determination first, or 2) until the security amount is posted to protect the defendant. That seems fair.

13. But in this case, Appellant filed his Rule 12 and attorney disqualification motions over 2 months before the vexatious litigant motion⁴ —

³ “Drum also argues that the motions to declare him a vexatious litigant were an “abuse of the discovery process” and that the trial court should have heard and ruled on his multiple motions to compel discovery and for discovery sanctions, which were filed after Calhoun's motion to declare Drum a vexatious litigant.” *Drum, Id.* at 369.

⁴ Appellant filed his motion February 1, 2018. Appellees filed their motion April 18, 2018.

immediately once opposing counsel first appeared in the case. Further, as described below, the attorney challenges are directly related to the vexatious litigant issue, where if sustained, those attorneys were never authorized to file the vexatious litigant motion in the first place. The automatic stay should not operate to retroactively, and then subsequently, to completely eliminate a litigant's right to obtain a hearing on a fundamental issue as to the qualifications of the attorneys.

14. *Drum* should not stand to retroactively and permanently deny a litigant the right to challenge the attorneys who are filing motions against him.

The Stay Does Not Stay Everything

15. This court's opinion in *Drum* also identified that the trial judge, who coincidentally is the same trial judge as in this underlying case, did not impose the stay against Richard Drum's right to obtain a hearing on his motion for new trial, where she considered and affirmatively denied the motion for new trial. *Drum, Id.* at 374. *Drum* does not stand for the proposition that an adjudged vexatious litigant may not seek a hearing on a motion for new trial, based on an automatic stay, as some issues to defeat the vexatious litigant determination may only be preserved for appeal by seeking a hearing on a motion for new trial. Tex. R. Civ. P. 324(b)(1)(a) (complaint on which evidence must be heard – such as extrinsic fraud).

16. Outside of the George Allen Courthouse, district courts in other jurisdictions do allow alleged vexatious litigants evidentiary hearings on their

motions for new trial – in spite of the existing stay. *e.g., see Ghidoni v. Skeins*, 510 S.W.3d 707, 710 (Tex. App.-San Antonio 2016, no pet.)

17. As another example, in this court *during the stay*, appellant did obtain a contested judicial recusal hearing ... on which he prevailed. The stay, of course, could not be enforced to prevent a hearing on the qualifications of the judge who was hearing the vexatious litigant itself. Under our Constitutions and the Legislature's statutes, a recusal issue comes first – in spite of the stay.

18. Likewise, certain attorney disqualifications are mandatory⁵ and the State Bar Act does not allow unauthorized attorneys from representing parties who they do not represent. Individuals appearing in court for people who they do not represent is even a crime in this state.

19. *Drum v. Calhoun* should not stand to eliminate a litigant's multiple timely-filed requests for at least one hearing to determine the qualifications of the adversaries against him and for this court's ruling to be used as a shield to hide prohibited conflicts of interests, abusive litigation practices, and for lawyers to appear for a corporation which never retained them.

Appellees Waived the Automatic Stay

20. Appellant points out, during the stay, Appellees:

⁵ TEX. DISCIPLINARY R. PROF. CONDUCT, (2018) REPRINTED IN TEX. GOVT CODE ANN., TIT. 2, SUBTIT. G, APP. RULE § 1.15 MANDATORY WITHDRAWAL.

a. Moved for⁶ and were granted⁷ a transfer of the case from the 44th District Court to the 162nd District Court.

b. Moved for a protective order, EXHIBIT B, to block Appellant compelling witnesses to 1) bring evidence in support of the Rule 12 and disqualification issues, and 2) to immediately quash the subpoena to allow appellant witnesses to testify on his behalf at the vexatious litigant hearing⁸.

c. Nonsuited their claims⁹.

d. Moved for¹⁰ and were granted¹¹ a motion to strike Appellant's motion to obtain a hearing on his Rule 12 and attorney disqualification challenges.

21. Certainly, the stay would not prevent appellees from non-suiting their own claims—again demonstrating that the “stay” does not stay everything.

22. But nothing would explain why the 44th District Court could not properly appraise the vexatious litigant hearing. Instead, appellees wanted the case tried by Judge Moore, and **waived the stay** by moving for a transfer. The Local

⁶ C.R. 22

⁷ C.R. 661

⁸ R.R. September 20, 2018, Vexatious Litigant Hearing, 78:20 - 25

⁹ R.R. April 5, 2019, Reconsideration Hearing, 80:23 – 81:7

¹⁰ C.R. 129

¹¹ C.R. 133

District Rule 1.06 that allows inter-district transfers holds that such transfers are made by the judges, and not by motion of a litigant¹².

23. Once a litigant voluntarily waives the stay they cannot complain that their opponent obtains hearings too. *Bergholtz v. Eskenazi*, 521 S.W.3d 397, 400, (Tex. App.-El Paso 2017, no pet.)(where the record reflects that both parties filed pleadings seeking affirmative relief and vigorously litigated the case after Eskenazi filed the vexatious litigant motion). Appellees waived any effect *Drum* could have had on preventing the Rule 12 hearing requested from this court through temporary orders by them requesting affirmative relief in the trial court. To hold otherwise would allow the Rule 12 and disqualification issue **to completely escape judicial and appellate review**.

24. Allowing opposing counsel to file a vexatious litigant motion to elude, evade, and escape a hearing on their authorization as attorneys of record, to prevail on their motion, and then to further escape appellate review to defend their judgment on appeal would be an abuse of discretion, totally skewing the litigation process where appellant has no remedy by appeal. Other courts of appeal have held, even through *mandamus*, that a determination of ‘who represents whom’ must be allowed. *See, In re Salazar*, 315 S.W.3d 279, 287 (Tex.App.-Fort Worth 2010, orig.

¹² DALLAS CTY. CIV. CT. LOC. R. 1.06

proceeding); *In re Spooner*, 333 S.W.3d 759, 764 (Tex. App.-Houston [1st Dist.] 2010, orig. proceeding).

The Requested Hearing is Fundamental to the Issues under Appeal

25. Appellant contends that he did nothing to commence, prosecute, or even maintain the underlying lawsuit in Dallas County before the vexatious litigant motion had been filed on April 18, 2018. Appellant contends opposing counsel *themselves*, in spite of the Rules of the Bar to the contrary and without the prior authority of their client, seek to bulldoze, bully, and proactively find appellant a vexatious litigant.

26. Just like the fundamental question of the judge's qualification to hear the contest (which was heard first and sustained), the question of whether the lawyers were authorized or qualified to file the vexatious litigant motion or **to defend it on appeal** is fundamental, and should proceed first. Appellant properly alleges that the attorney disqualification is mandatory under several violations of the State Bar Act.

27. *Drum v. Calhoun* should not stand for the proposition to allow a fraud on the court, allowing individuals to appear for a litigant where they have no authority to do so, and for attorneys to appear before the court where the Legislature has forbid.

It is Unconstitutional to Stay Only One Litigant's Side of the Case

28. This court's and the trial court's denial to allow appellant to properly defend the vexatious litigant determination, all based on *Drum*, **combine** to create an unconstitutional hardship on appellant. Appellant contends opposing counsel had no authority to and were disqualified from filing the vexatious litigant motion in the first place. Likewise, they are not authorized or qualified to defend the judgment on appeal.

29. Appellant set his Rule 12 motion and disqualification hearings at the same time as the vexatious litigant motion and he hired a lawyer to defend the vexatious litigant complaint on September 20, 2018¹³, who requested a continuance. But **because of *Drum***, the trial court held the vexatious litigant issue must be heard first before hearing appellant's requests¹⁴.

30. Appellant hired another lawyer to obtain a rehearing of the vexatious litigant issue so he could testify in his defense, but **because of *Drum***, the trial court would not allow appellant to testify¹⁵.

MR. BRAGALONE: That's correct. The Drum versus Calhoun opinion that I referenced was Your Honor's. It went up to the Dallas Court of Appeals and was decided in 2009, and what the Court holds there, as Your Honor

¹³ The Rogge Dunn Group law firm.

¹⁴ I guess I'm concerned, you're right, I've got to do this -- I think that's why I said -- actually, I was working on it earlier today, because I was like, well, we have motions to disqualify and show authority, and usually those come first but, obviously, I think, you're right, the vexatious litigant has come first. R.R. September 20, 2018 Vexatious Litigant Hearing, 8:9 – 15.

¹⁵ The trial court ruled that appellant was not allowed to testify and provide new evidence at the reconsideration hearing. R.R. April 5, 2019, 53:11 – 16.

is aware, is that it's a jurisdictional thing when the vexatious litigant has the opportunity to post the bond or its security and fails he's done.

THE COURT: Okay.

MR. BRAGALONE: That's statutory law. If you file the bond, perhaps you could file a motion for reconsideration, but you have no right to come into Court and ask the Court to reconsider it when you didn't pay the bond.

THE COURT: Okay. So if there's a -- there's a time for the bond and the order, don't pay it, don't ask for it to be reconsidered, don't, whatever, at the time -- you know, within -- within the time for the bond, then -- that he doesn't have a -- you're saying he doesn't have a right because that bond was not posted and he didn't request the reconsideration or anything before that time was triggered?

MR. BRAGALONE: That's correct, Your Honor.

THE COURT: Okay.

R.R. April 5, 2019, Reconsideration Hearing, 32:11 – 33:11.

31. After the vexatious litigant motion was sustained, appellant again sought a hearing on the Rule 12 issue, but **because of *Drum***, the trial court struck appellant's motion and denied a hearing.

32. Appellant sought a motion for new trial to testify in defense of the vexatious litigant issue, but **because of *Drum***, he was not allowed a hearing.

33. And now, through temporary orders in this court appellant seeks a hearing on the Rule 12 and disqualification issues, but **because of *Drum***, this court denied a hearing.

34. **But**, appellees **affirmatively** quashed appellant's request to obtain witnesses to defend against the vexatious litigant determination and they quashed presentation of evidence on their lack of authority to bring the vexatious litigant complaint—why, **because of the stay**¹⁶. EXHIBIT C.

35. It simply is not fair¹⁷ to never allow appellant to ever testify in defense of the vexatious litigant determination, to never allow a challenge to the very filing of the motion on which his entire lawsuit was dismissed, but to simultaneously allow appellees to seek the judge they want and to deny appellant witnesses and evidence in his defense.

36. Although the Supreme Court traditionally has concluded that personal bias or prejudice alone was not a sufficient basis “for imposing a constitutional requirement under the Due Process Clause,” in *Caperton v. A.T. Massey Coal Company*, the Court stated there are circumstances “in which experience teaches that the probability of actual bias on the part of the judge or decision maker is too high to be constitutionally tolerable.” *Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868, 876, 129 S.Ct. 2252, 173 L.Ed.2d 1208 (2009).

¹⁶ Appellees made a false argument that *Drake v. Willing*, like *Drum*, prohibits **all** further hearings.

¹⁷ This Court has concluded that a party has a right to a fair trial under the federal and state constitutions. *Thomas v. 462 Thomas Family Properties, LP*, 559 S.W.3d 634, 642 (Tex. App. — Dallas, 2018); *Rymer v. Lewis*, 206 S.W.3d 732, 736 (Tex. App.—Dallas 2006, no pet.) (citing *Metzger v. Sebek*, 892 S.W.2d 20, 37 (Tex. App.—Houston [1st Dist.] 1994, writ denied)).

37. The unique circumstance here is that the cited *Drum* case involved the trial judge herself and concerned the applicability and relevance of the “automatic stay” in vexatious litigant proceedings. The trial judge **shrieked** at the mere mention of Richard Drum.

MR. BRAGALONE: You might remember finally a Mr. Drum –

THE COURT: **Oh, Lord, yes. I didn't say that, sorry.**

R.R. April 5, 2019, 31:12 – 15

38. Given the negative experience the judge must have endured with Mr. Drum, the trial court was unfair with appellant – 1) denying his new attorney a continuance, 2) not allowing appellant to ever testify in defense of the vexatious litigant determination, 3) not allowing appellant a hearing on a motion for new trial, 4) and never allowing him the fundamental hearing to challenge the attorneys who were filing motions against him. The trial court went as far as to tell appellant he could not even file documents in the court.

Summary

39. This appeal is only of the Prefiling order. If combined with 05-19-0111-CV, it would be then be the only appeal.

40. Appellant simply seeks a hearing on his Rule 12 and attorney disqualification issue. He has never had one, and if not allowed, the issue would entirely escape judicial and appellate review.

41. If opposing counsel are unable to show in an evidentiary hearing with cross-examination that they had the authority to bring the April 18, 2018, vexatious litigant motion, appellant asks this court to vacate the trial court's Prefiling Order, and in the interest of justice, reinstate appellant's claims.

Wherefore, Appellant seeks a rehearing to correct the facts to show this appeal is only of the Prefiling Order, and to obtain a hearing to challenge the authority of the attorneys defending this appeal.

Respectfully submitted,
/s/ Peter Beasley
Peter Beasley
P.O. Box 831359
Richardson, Texas 75083
972-365-1170

DECLARATION OF VERIFICATION

STATE OF TEXAS §
COUNTY OF DALLAS §

My first, middle, and last name is Peter Morell Beasley, my date of birth is September 20, 1958, and my address is 12915 Fall Manor, Dallas, Texas, 75243, United States. I declare under penalty of perjury that the foregoing statements are true and correct.

1. My name is Peter Beasley. I am over the age of twenty-one years, of sound mind, have never been convicted of any felony offense and I am fully competent and authorized to make this declaration. I have personal knowledge of the facts stated herein the Motion due to my personal involvement in the events and occurrences set forth.
2. I am the Appellant in the above entitled and numbered matter.
3. I have read the above and foregoing Motion; that every statement of fact are within my personal knowledge, and are true and correct.
4. The attached exhibits are true copy of the documents they represent, filed in the trial court.

Executed in Dallas, State of Texas, on the 25th day of September, 2019.


Declarant

CERTIFICATE OF SERVICE

I hereby certify that on the 25th day of September 2019, a true copy of the foregoing instrument was served on opposing counsel through the court's electronic filing system.

/s/ Peter Beasley
Peter Beasley

Order entered September 13, 2019



In The
Court of Appeals
Fifth District of Texas at Dallas

No. 05-19-00607-CV

PETER BEASLEY, Appellant

V.

**SOCIETY OF INFORMATION MANAGEMENT, DALLAS AREA CHAPTER;
JANIS O'BRYAN; AND NELSON BURNS, Appellees**

**On Appeal from the 191st Judicial District Court
Dallas County, Texas
Trial Court Cause No. DC-1 8-05278**

ORDER

Before Chief Justice Burns, Justice Molberg, and Justice Nowell

Before the Court is appellant's motion for rehearing of our September 11, 2019 order denying his first opposed motion for emergency temporary orders. Appellant states we incorrectly defined the scope of the appeal in the order and asks for a correction. We **GRANT** the motion and **VACATE** our September 11th order. The following is now the order on the motion for emergency temporary orders.

The underlying suit in this appeal was filed by appellant. On appellees' motion, the trial court declared appellant vexatious pursuant to chapter 11 of the Texas Civil Practice and Remedies Code, ordered him to post bond in the amount of \$422,064 as security to continue the suit, and required him to obtain permission from the appropriate local administrative judge prior

to filing any new suits. *See* TEX. CIV. PRAC. & REM. CODE ANN. §§ 11.051, 11.055, 11.101. Appellant failed to post the bond, and the suit was dismissed. *See id.* § 11.056. This appeal challenges the order declaring appellant vexatious.

Asserting the trial court impermissibly denied him hearings on his motion for new trial and motion challenging defense counsel’s authority to defend against the suit, appellant has filed an opposed first amended motion for emergency temporary orders. Specifically, he asks the Court to direct the trial court to “not interfere with [him] obtaining [] hearing[s].” And, because the trial court’s plenary power will soon expire, he also asks we extend the plenary power.¹

Civil practice and remedies code section 11.052 provides that, on the filing of a motion for an order declaring a plaintiff vexatious, “the litigation is stayed.” *See id.* § 11.052. If the motion is granted, the stay remains in effect unless and until appellant posts security. *Drum v. Calhoun*, 299 S.W.3d 360, 369 (Tex. App.—Dallas 2009, pet. denied).

Because appellant failed to post the bond, the stay remains in place. Accordingly, we **DENY** the motion.

Appellant’s motion to recuse Justices Lana Myers and Ada Brown remains pending.

/s/ KEN MOLBERG
JUSTICE

¹ Appellant has a third request, that we direct the trial court “to not interfere with [him] filing court documents in support of this appeal,” but he acknowledges both the Clerk of this Court and the trial court clerk have accepted his filings.

4. The trial proceedings are under an automatic stay since April 18, 2018. The delay in docketing the interlocutory appeal is a harmless procedural error where an instrument was timely filed in the trial court which expressed that Plaintiff desired to challenge the order, thus liberally meeting the jurisdictional requirements to perfect an appeal. The Supreme Court has instructed the courts of appeals to construe the Rules of Appellate Procedure reasonably, yet liberally, so that the right to appeal is not lost by imposing requirements not absolutely necessary to effect the purpose of a rule. *Verburgt v. Dorner*, 959 S.W.2d 615, 617 (Tex. 1997). The required motion for an extension of time to be filed in the appeals court may be necessarily implied. *See, Verburgt, Id.*, at 617 - 618.

5. Given the automatic stay in trial proceedings, there is no necessary purpose to enforce a strict reading of the appellate rules to disallow the appeal. The underlying judgment is interlocutory, and no “finality of a judgment” is threatened.

6. The extension of time is justified by a misunderstanding of the law while Plaintiff was represented by two law firms, as the statute authorizing an appeal does not expressly authorize an interlocutory appeal and the appellate ruling which authorized an interlocutory appeal was decided on the deadline to pursue such a course of action.

7. The appeal is taken from the 191st Judicial District Court of Dallas, County; court number DC-18-05278; styled *Beasley v. Society of Information Management, et. al.*

8. The date of the judgment is December 11, 2018.

9. The appeal is taken to 5th District Court of Appeals, Dallas, Texas.

10. This is an accelerated appeal which IS NOT a parental termination or child protection case.

Respectfully submitted,

PETER BEASLEY

/s/ Peter Beasley
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(972) 365-1170

CERTIFICATE OF SERVICE

I certify that a true and correct copy of this pleading has been served upon all counsel listed below via e-service on May 21, 2019:

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/s/ Peter Beasley
Peter Beasley

Shelia Bradley

CAUSE NO. DC-18-05278

PETER BEASLEY	§	IN THE 191 ST JUDICIAL
	§	
<i>Plaintiff</i>	§	
	§	
v.	§	DISTRICT COURT OF
	§	
SOCIETY OF INFORMATION	§	
MANAGEMENT, DALLAS AREA	§	
CHAPTER; JANIS O'BRYAN; and	§	
NELLSON BURNS	§	
	§	
<i>Defendants</i>	§	DALLAS COUNTY, TEXAS

AMENDED NOTICE OF PARTIAL APPEAL

The Clerk of the 5th District Court of Appeals has directed Plaintiff / Appellant Peter Beasley to file this amended notice of appeal by July 25, 2019, for pending appeal **05-19-00607-CV**. Exhibit A.

Plaintiff/Appellant Peter Beasley, desires to appeal from the December 11, 2018, order, it being one of two final orders entered in this lawsuit. Sections of that order, namely the condition that Plaintiff be prohibited from filing any new lawsuits *pro se* without permission – a.k.a. “the Prefiling Order”, was immediately appealable. Tex. Civ. Prac. & Rem. Code 11.053(c). With an abundance of caution, Plaintiff has pursued pending appeals of that order by *mandamus*, 05-19-00422-CV, and by interlocutory appeal, 05-19-00607-CV.

The second final order was entered June 11, 2019, where the two combined orders dispose of all the issues between the parties. The second order does not incorporate the first.

A timely motion for new trial was filed July 11, 2019, and a timely request for Findings of Fact and Conclusions of Law was filed June 12, 2019. While the two referenced orders are final, Plaintiff reserves his right to seek a new trial on the items which were not subject to an immediate appeal, which the trial court has jurisdiction to do until September 9, 2019.

1. The appeal is taken from the 191st Judicial District Court of Dallas, County; court number DC-18-05278; styled *Beasley v. Society of Information Management, et. al.*
2. The date of the judgment is December 11, 2018.
3. The appeal is taken to 5th District Court of Appeals, Dallas, Texas, 05-19-00607-CV. The clerk's record, the reporter's record, and Appellants brief has been filed.
4. Plaintiff is currently listed on the Texas Office of Court Administration's website as a vexatious litigant, *without appellate review*.
5. This is an accelerated appeal which IS NOT a parental termination or child protection case.

Respectfully submitted,

PETER BEASLEY

/s/ Peter Beasley
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(972) 365-1170

CERTIFICATE OF SERVICE

I certify that a true and correct copy of this pleading has been served upon all counsel listed below via e-service on July 16, 2019:

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/s/ Peter Beasley
Peter Beasley

CHIEF JUSTICE
ROBERT D. BURNS, III

JUSTICES
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LANA MYERS
ADA BROWN
BILL WHITEHILL
DAVID J. SCHENCK
KEN MOLBERG
LESLIE OSBORNE
ROBBIE PARTIDA-KIPNESS
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July 15, 2019

Mr. Peter Beasley
P.O. Box 831359
Richardson, Texas 75083-1359

Mr. Robert Bragalone
Gordon & Rees
220 Ross Avenue, Suite 4100 West
Dallas, Texas 75201

RE: Court of Appeals Number 05-19-00607-CV; Trial Court Case Number DC-18-05278

Style: Peter Beasley v. Society of Information Management, Dallas Area Chapter; Janis O'Bryan and Nellson Burns

Dear Sirs:

This appeal from the trial court's interlocutory order declaring appellant vexatious and requiring him to obtain permission from the appropriate local administrative judge prior to filing any new lawsuits pro se was filed as an accelerated appeal. However, since the filing, the trial court has signed a final judgment. Accordingly, appellant is directed to file, no later than July 25, 2019, an amended notice of appeal that reflects a final judgment has been signed and the date the judgment was signed.

Until the amended notice of appeal is filed, the Court will take no action on appellees' pending motion for extension of time to file their brief. The Court will set a new deadline for appellees' brief upon the filing of the amended notice of appeal.

Respectfully,

/s/ Lisa Matz, Clerk of the Court

ltr/lp

cc: Peter S. Vogel
Sona J. Garcia

CAUSE NO. DC-18-05278

PETER BEASLEY	§	IN THE 191 ST JUDICIAL
	§	
<i>Plaintiff</i>	§	
	§	
v.	§	DISTRICT COURT OF
	§	
SOCIETY OF INFORMATION	§	
MANAGEMENT, DALLAS AREA	§	
CHAPTER; JANIS O'BRYAN; and	§	
NELLSON BURNS	§	
	§	
<i>Defendants</i>	§	DALLAS COUNTY, TEXAS

NOTICE OF PARTIAL APPEAL

Plaintiff/Appellant Peter Beasley, desires to appeal from the December 11, 2018, and June 11, 2019, orders of this court – in part.

The Prefiling Order of the December 11, 2018, order is already under appeal in 05-19-00607-CV. However, the order affixing the bond amount in that order was not subject to an interlocutory appeal. Beasley hereby reserves his right to appeal all respects of the December 11, 2018 order, except the Prefiling Order.

The June 11, 2019, order of dismissal was not subject to an interlocutory appeal. Beasley timely filed a July 11, 2019, motion for new trial – but the 191st court on August 7, 2019, confirmed that they would not allow him a hearing on his motion. As a result, on August 29, 2019, Beasley moved to recuse the judges from the 191st courts.

It's Sunday, September 8. Although more than 3 days have transpired, Judges Slaughter and Purdy have not either recused themselves or referred Beasley's recusal motions to the Regional Presiding Judge to allow a hearing on his motion for new trial. Plus, the Regional Presiding Judge has been away on business. It is no longer possible to provide 3 days' notice of a hearing, or to obtain an emergency hearing on Beasley's motion for new trial by tomorrow, the last day to do so.

1. The appeal is taken from the 191st Judicial District Court of Dallas, County; court number DC-18-05278; styled *Beasley v. Society of Information Management, et. al.*
2. The date of the judgment is December 11, 2018 and June 11, 2019.
3. The appeal is taken to 5th District Court of Appeals, Dallas, Texas, 05-19-00607-CV.
4. Plaintiff is currently listed on the Texas Office of Court Administration's website as a vexatious litigant.

Respectfully submitted,

PETER BEASLEY

/s/ Peter Beasley
Peter Beasley, pro se
pbeasley@netwatchsolutions.com
P.O. Box 831359
Richardson, TX 75083-1359
(972) 365-1170

CERTIFICATE OF SERVICE

I certify that a true and correct copy of this pleading has been served upon opposing counsel via e-service on September 8, 2019:

/s/ Peter Beasley
Peter Beasley

Margaret Thomas

CAUSE NO. DC-18-05278

PETER BEASLEY,	§	IN THE DISTRICT COURT
	§	
Plaintiff,	§	
	§	
v.	§	
	§	DALLAS COUNTY, TEXAS
SOCIETY OF INFORMATION	§	
MANAGEMENT, DALLAS AREA	§	
CHAPTER, et al.,	§	
	§	
Defendant.	§	191st JUDICIAL DISTRICT

**DEFENDANTS' MOTION FOR PROTECTIVE ORDER AND
OBJECTION TO HEARING**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Defendants and files this Motion for Protective Order and
Objection to Hearing and would respectfully show this Court as follows:

**I.
BACKGROUND**

On August 22, 2018 this Court set Defendant's Vexatious Litigant Motion for
hearing on Thursday, September 20, 2018 at 1:00 p.m. Plaintiff Peter Beasley also set his
Second Amended Motion to Show Authority, Motion to Disqualify Attorneys, and
Request for Mediation and his Motion for Rule 13 Sanctions and Request for Findings of
Fact at the same time ("Pending Motions").

On August 28, 2018 Plaintiff served subpoenas duces tecum on Janis O'Bryan,
Nellson Burns, attorney Soña Garcia, and attorney Peter Vogel.¹ Per the terms of the

¹ Attached as **Exhibit 1**.

subpoenas, Plaintiff is seeking to have each person testify regarding Plaintiff's Pending Motions and provide documents supporting the authority and retention of defense counsel to represent Defendants:

- Subpoena to Garcia: "said witness is to bring and produce in said Court, at said time and place a certain all contracts or other documents, which indicate your authority to represent the Society of Information Management March 31, 2016".
- Subpoena to Vogel: "said witness is to bring and produce in said Court, at said time and place a certain all contract or other documents, which indicate your authority to represent the Society of Information Management March 20, 2016".
- Subpoenas to O'Bryan and Burns: "said witness is to bring and produce in said Court, at said time and place a certain all minutes, bylaws and agreement which authorize attorneys Robert Bragalone, Sona Garcia, Peter Vogel, and law firms Gordon Rees and Gardere, and for any other attorneys or law firms to represent SIM Dallas Area Chapter in this Conflict, in all of its Courts and cause numbers since March 17, 2016".

On February 27, 2018 Defendants filed the Response to Plaintiff's Amended Rule 12 Motion, Motion to Disqualify Attorneys, Motion for Attorneys' Fees, and Request for Mediation and Motion Seeking Sanctions.² Defendants' response clearly and unequivocally established defense counsel's authority to defend this lawsuit. Defendant SIM-DFW has, at multiple times in this two year plus litigation, expressly authorized defense counsel's authority to defend this litigation. On February 27, 2018, by copy of Defendant's Responsive brief, Plaintiff received the sworn declaration of Janis O'Bryan, the sworn declaration of Peter Vogel, the engagement agreement between SIM-DFW and Mr. Vogel's firm, and the identification of the insurance policy under which Gordon Rees Scully Mansukhani, LLP was assigned as defense counsel for SIM-DFW.³

² Attached as **Exhibit 4**.

³ The insurance policy was provided to Plaintiff as part of the 2016 Dallas County Lawsuit in discovery.

Plaintiff's subpoenas are harassing given that Plaintiff has had the very information he purports to seek by subpoena for more than 6 months. Only the May 7, 2018 SIM-DFW Board meeting minutes attached to the declarations of Janis O'Bryan and Nellson Burns which state that SIM-DFW's 2018 Board affirmed and ratified the retention of Gordon & Rees and Gardere Wynne Sewell LLP (now Foley Gardere, Foley & Lardner LLP) are new information,⁴ but these minutes are merely duplicative of information provided six months ago.

II.

ARGUMENT AND AUTHORITIES

Rule 176.6(e) of the TEXAS RULES OF CIVIL PROCEDURE states that:

(e) *Protective orders.* A person commanded to appear at a deposition, hearing, or trial, or to produce and permit inspection and copying of designated documents and things, and any other person affected by the subpoena, may move for a protective order under Rule 192.6(b) - before the time specified for compliance - either in the court in which the action is pending or in a district court in the county where the subpoena was served. The person must serve the motion on all parties in accordance with Rule 21a. A person need not comply with the part of a subpoena from which protection is sought under this paragraph unless ordered to.

A protective order may issue to protect a witness from undue burden, unnecessary expense, harassment, annoyance, or invasion of personal, constitutional, or property rights. TEX. R. CIV. P. 192.6(b).

In addition to the purely harassing nature of the subpoenas directed to Ms. O'Bryan and Mr. Burns, neither Ms. O'Bryan nor Mr. Burns will be in Dallas on September 20, 2018. As the attached declarations state, Ms. O'Bryan will be on a

⁴ See **Exhibit A** to the Declarations of Janis O'Bryan and Nellson Burns, **Exhibit 2** and **Exhibit 3**.

pre-planned family trip on September 20, 2018,⁵ and Mr. Burns will be traveling overseas for work.⁶ Defendants are asking this Court for the entry of an order protecting both Ms. O'Bryan and Mr. Burns from the summons to appear, give testimony, and provide documents at the September 20, 2018 hearing.

Defendants further seek an order of this Court protecting Ms. Garcia from the summons issued to her. Ms. Garcia is not lead trial counsel for the Defendants. Mr. Bragalone is lead trial counsel and Ms. Garcia has no specialized knowledge or information regarding the assignment of the defense of this litigation to Gordon & Rees. Mr. Bragalone is the appropriate witness to speak on behalf of Gordon & Rees as lead trial counsel and a partner in the firm. Accordingly, under the circumstances as described above, the subpoenas issued to Ms. O'Bryan, Mr. Burns, and Ms. Garcia create an undue burden, seek to cause Defendants to incur unnecessary expense, and are harassing and an annoyance. A protective order should issue.

III. OBJECTION TO HEARING

Chapter 11 of the TEXAS CIVIL PRACTICE & REMEDIES CODE mandates that litigation is stayed once a motion to declare the plaintiff a vexatious litigant is filed. TEX. CIV. PRAC. & REM. CODE § 11.052(a). Plaintiff's attempt to have a hearing on his pending motions is not supported by law. *Drake v. Willing*, 2015 Tex. App. LEXIS 9663 (Tex.App.—Austin, September 16, 2015, no pet.) (the court did not abuse its discretion by refusing to address various motions pending by plaintiff in light of the stay under Chapter 11). In *Drake* the Third Court of Appeals stated “[e]ven challenges to the court’s

⁵ See Declaration of Janis O'Bryan, attached as **Exhibit 2**.

⁶ See Declaration of Nellson Burns, attached as **Exhibit 3**.

subject-matter jurisdiction over a plaintiff's claim may be left unresolved pending the vexatious litigant-determination....” Plaintiff's various motions seeking to deprive Defendants of defense counsel, mandate mediation, and seeking sanctions are improperly set before this Court because of the express mandatory stay mandated by the vexatious litigant statute.

IV.
PRAYER FOR RELIEF

WHEREFORE, PREMISES CONSIDERED, Defendants respectfully request that the Court remove Plaintiff's hearing from the calendar on September 20, 2018 and/or issue a Protective Order protecting Janis O'Bryan, Nellson Burns, and Soña Garcia from the summons to appear and give testimony and provide duplicative documents and materials at the September 20, 2018 hearing on Plaintiff's Second Amended Motion to Show authority, Motion to Disqualify Attorneys, and Request for Mediation and his Motion for Rule 13 Sanctions and Request for Findings of Fact and for such other and further relief, both at law and in equity, to which Defendants may be justly entitled.

Respectfully submitted,

GORDON & REES

/s/ Soña J. Garcia

ROBERT A. BRAGALONE

State Bar No. 02855850

BBragalone@grsm.com

SOÑA J. GARCIA

State Bar No. 24045917

SJGarcia@grsm.com

2200 Ross Avenue, Suite 4100 West

Dallas, Texas 75201-2708

214-231-4660 (Telephone)

214-461-4053 (Facsimile)

**FOLEY GARDERE
FOLEY & LARDNER LLP**

PETER S. VOGEL
State Bar No. 2060150
PVogel@Foley.com
2021 McKinney Ave. Ste. 1600
Dallas, Texas 75201
214-999-3000 (Telephone)
214-999-4667 (Facsimile)

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing document was served pursuant to TEXAS RULES OF CIVIL PROCEDURE 21 and 21a on Plaintiff via electronic service on September 13, 2018.

/s/ Soña J. Garcia

Soña J. Garcia

From: Peter Beasley <pbeasley@netwatchsolutions.com>
Sent: Tuesday, August 28, 2018 5:32 PM
To: Soña Garcia; pvogel@gardere.com
Cc: Bob Bragalone
Subject: Subpoenas to attend Sept. 20 hearing
Attachments: DC-18-05278 - SONA GARCIA.pdf; DC-18-05278 - PETER VOGEL.pdf; DC-18-05278 - JANIS OBRYAN.pdf; DC-18-05278 - NELSON BURNS.pdf

Follow Up Flag: Follow up
Flag Status: Completed

Sona, Attached are subpoenas for parties and party representatives Nellson Burns and Janis O'Bryan to attend and serve as my witnesses for the September 20, 2018, hearing at 1:00 p.m..

You and Peter Vogel are also now under subpoenas to attend too.

Regards.

Peter Beasley, CTO
Netwatch Solutions, Inc.
www.netwatchsolutions.com
214-446-8486 ext. 105 (o)
972-365-1170 (c)

FORM 316 SUBPOENA DUCES TECUM (CIVIL)

CAUSE NO. DC-18-05278

ESERVE

STYLE

PETER BEASLEY

VS.

SOCIETY OF INFORMATION MANAGEMENT,
DALLAS AREA CHAPTER ET AL

THE STATE OF TEXAS

TO ANY SHERIFF OR CONSTABLE IN THE STATE OF TEXAS OR OTHER PERSON
AUTHORIZED TO SERVE AND EXECUTE SUBPOENAS AS PROVIDED IN RULE 178,
TEXAS RULES OF COURT-----GREETINGS:

YOU ARE HEREBY COMMANDED TO SUMMON

SONA GARCIA, 2200 ROSS AVENUE, SUITE 4100 WEST DALLAS, TEXAS 75201-
2708

to be and appear at 600 Commerce Street before the District Court of Dallas County 191ST
DISTRICT COURT of Texas, to be held at the Courthouse, in said County, on the 20TH DAY
OF SEPTEMBER 2018, then and there to testify as a witness in behalf of the PETITIONER in
a civil action pending before said Court, in which PETER BEASLEY is Plaintiff/Petitioner and
SOCIETY OF INFORMATION MANAGEMENT, DALLAS AREA CHAPTER is
Defendant/Respondent and that said witness is to bring and produce in said Court, at said time
and place a certain

ALL CONTRACTS OR OTHER DOCUMENTS, WHICH INDICATE YOUR
AUTHORITY TO REPRESENT THE SOCIETY OF INFORMATION MANAGEMENT
MARCH 31, 2016.

desired as evidence in said civil action, to-wit; in a certain suit pending in said court, and there
remain from day to day and term to term, until discharged by the Court. Failure by any person
without adequate excuse to obey a subpoena served upon that person may be deemed a contempt
of the court from which the subpoena is issued or a district court in the county in which the
subpoena is served, and may be punished by fine or confinement, or both.

HEREIN FAIL NOT, but of this writ make due return showing how you have executed the same.
GIVEN UNDER MY HAND AND SEAL OF SAID COURT, at office in the City of Dallas,
ON THIS THE 28TH DAY OF AUGUST 2018.

Issued at request of:

PETER BEASLEY

P O BOX 831359

RICHARDSON TX 75083

972-365-1170

ATTEST: FELICIA PITRE

Clerk of the District Courts

Dallas County, Texas



By Gay Lane, Deputy

GAY LANE

EXHIBIT 1

(page 2 of 9)

EXHIBIT C

FORM 316 SUBPOENA DUCES TECUM (CIVIL)

OFFICER'S RETURN
CASE NO. DC-18-05278

PETER BEASLEY

VS.

SOCIETY OF INFORMATION MANAGEMENT, DALLAS AREA CHAPTER ET AL

Came to hand the _____ day of _____ A.D. 20____, at
_____ o'clock _____ M., and executed by delivering a copy of this subpoena to the within
named witness at the following time and place to-wit:

and not executed as to the witness for the following reason:

I actually and necessarily traveled _____ miles in the service of this Subpoena, in
addition to any other mileage I may have traveled in the service of other process in this cause
during the same trip.

Summoning Witness \$ _____

Mileage \$ _____

Total \$ _____

Sheriff _____ County,
Texas

By _____

Deputy

EXHIBIT 1

(page 3 of 9)

EXHIBIT C

FORM 316 SUBPOENA DUCES TECUM (CIVIL)

CAUSE NO. DC-18-05278

ESERVE

STYLE

PETER BEASLEY

VS.

SOCIETY OF INFORMATION MANAGEMENT,
DALLAS AREA CHAPTER ET AL

THE STATE OF TEXAS

TO ANY SHERIFF OR CONSTABLE IN THE STATE OF TEXAS OR OTHER PERSON
AUTHORIZED TO SERVE AND EXECUTE SUBPOENAS AS PROVIDED IN RULE 178,
TEXAS RULES OF COURT-----GREETINGS:

YOU ARE HEREBY COMMANDED TO SUMMON

PETER VOGEL, 2021 MCKINNEY AVE, STE. 1600, DALLAS TX 75201

to be and appear at 600 Commerce Street before the District Court of Dallas County 191ST
DISTRICT COURT of Texas, to be held at the Courthouse, in said County, on the 20TH DAY
OF SEPTEMBER 2018, AT 1:00 P.M. then and there to testify as a witness in behalf of the
PLAINTIFF in a civil action pending before said Court, in which PETER BEASLEY is
Plaintiff/Petitioner and SOCIETY OF INFORMATION MANAGEMENT, DALLAS AREA
CHAPTER is Defendant/Respondent and that said witness is to bring and produce in said Court,
at said time and place a certain

ALL CONTRACTS OR OTHER DOCUMENTS, WHICH INDICATE YOUR
AUTHORITY TO REPRESENT THE SOCIETY OF INFORMATION MANAGEMENT
MARCH 20, 2016.

desired as evidence in said civil action, to-wit; in a certain suit pending in said court, and there
remain from day to day and term to term, until discharged by the Court. Failure by any person
without adequate excuse to obey a subpoena served upon that person may be deemed a contempt
of the court from which the subpoena is issued or a district court in the county in which the
subpoena is served, and may be punished by fine or confinement, or both.

HEREIN FAIL NOT, but of this writ make due return showing how you have executed the same.
GIVEN UNDER MY HAND AND SEAL OF SAID COURT, at office in the City of Dallas,
ON THIS THE 28TH DAY OF AUGUST 2018.

Issued at request of:

PETER BEASLEY

P O BOX 831359

RICHARDSON TX 75083

972-365-1170



ATTEST: FELICIA PITRE

Clerk of the District Courts

Dallas County, Texas

By _____, Deputy

GAY LANE

EXHIBIT 1

(page 4 of 9)

EXHIBIT C

FORM 316 SUBPOENA DUCES TECUM (CIVIL)

OFFICER'S RETURN
CASE NO. DC-18-05278
PETER BEASLEY

VS.

SOCIETY OF INFORMATION MANAGEMENT, DALLAS AREA CHAPTER ET AL

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Summoning Witness \$ _____

Mileage \$ _____

Total \$ _____

Sheriff _____ County,
Texas

By _____

Deputy

FORM 316 SUBPOENA DUCES TECUM (CIVIL)

CAUSE NO. DC-18-05278

ESERVE

STYLE

PETER BEASLEY

VS.

SOCIETY OF INFORMATION MANAGEMENT,
DALLAS AREA CHAPTER AL

THE STATE OF TEXAS

TO ANY SHERIFF OR CONSTABLE IN THE STATE OF TEXAS OR OTHER PERSON
AUTHORIZED TO SERVE AND EXECUTE SUBPOENAS AS PROVIDED IN RULE 178, TEXAS
RULES OF COURT-----GREETINGS:

YOU ARE HEREBY COMMANDED TO SUMMON

JANIS O'BRYAN, 2200 ROSS AVENUE, SUITE 4100 WEST DALLAS TX 75201-2708

to be and appear at 600 Commerce Street before the District Court of Dallas County **191ST DISTRICT COURT** of Texas, to be held at the Courthouse, in said County, on the **20TH DAY OF SEPTEMBER 2018, AT 1:00 P.M.** then and there to testify as a witness in behalf of the **PLAINTIFF** in a civil action pending before said Court, in which **PETER BEASLEY** is Plaintiff/Petitioner and **SOCIETY OF INFORMATION MANAGEMENT, DALLAS AREA CHAPTER** is Defendant/Respondent and that said witness is to bring and produce in said Court, at said time and place a certain **ALL MINUTES, BYLAWS AND AGREEMENTS WHICH AUTHORIZE ATTORNEYS ROBERT BRAGALONE, SONA GARCIA, PETER VOGEL, AND LAW FIRMS GORDON REES AND GARDERE, AND FOR ANY OTHER ATTORNEYS OR LAW FIRMS TO REPRESENT SIM DALLAS AREA CHAPTER IN THIS CONFLICT, IN ALL OF ITS COURTS AND CAUSE NUMBERS SINCE MARCH 17, 2016**

desired as evidence in said civil action, to-wit; in a certain suit pending in said court, and there remain from day to day and term to term, until discharged by the Court. Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena is issued or a district court in the county in which the subpoena is served, and may be punished by fine or confinement, or both.

HEREIN FAIL NOT, but of this writ make due return showing how you have executed the same.

GIVEN UNDER MY HAND AND SEAL OF SAID COURT, at office in the City of Dallas,

ON THIS THE 28TH DAY OF AUGUST 2018.

Issued at request of:

PETER BEASLEY

P O BOX 831359

RICHARDSON TX 75083

972-365-1170



ATTEST: FELICIA PITRE

Clerk of the District Courts

Dallas County, Texas

By _____, Deputy

GAY LANE

EXHIBIT 1

(page 6 of 9)

FORM 316 SUBPOENA DUCES TECUM (CIVIL)

OFFICER'S RETURN
CASE NO. DC-18-05278
PETER BEASLEY

VS.

SOCIETY OF INFORMATION MANAGEMENT, DALLAS AREA CHAPTER ET AL

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and not executed as to the witness for the following reason:

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addition to any other mileage I may have traveled in the service of other process in this cause
during the same trip.

Summoning Witness \$ _____

Mileage \$ _____

Total \$ _____

Sheriff _____ County,
Texas

By _____

Deputy

EXHIBIT 1

(page 7 of 9)

EXHIBIT C

FORM 316 SUBPOENA DUCES TECUM (CIVIL)

CAUSE NO. DC-18-05278

ESERVE

STYLE

PETER BEASLEY

VS.

**SOCIETY OF INFORMATION MANAGEMENT,
DALLAS AREA CHAPTER AL**

THE STATE OF TEXAS

TO ANY SHERIFF OR CONSTABLE IN THE STATE OF TEXAS OR OTHER PERSON
AUTHORIZED TO SERVE AND EXECUTE SUBPOENAS AS PROVIDED IN RULE 178, TEXAS
RULES OF COURT-----GREETINGS:

YOU ARE HEREBY COMMANDED TO SUMMON

NELLSON BURNS, 2200 ROSS AVENUE, SUITE 4100, WEST DALLAS, TX 75201-2708

to be and appear at 600 Commerce Street before the District Court of Dallas County **191ST DISTRICT COURT** of Texas, to be held at the Courthouse, in said County, on the **20TH DAY OF SEPTEMBER 2018, AT 1:00 P.M.** then and there to testify as a witness in behalf of the **PLAINTIFF** in a civil action pending before said Court, in which **PETER BEASLEY** is Plaintiff/Petitioner and **SOCIETY OF INFORMATION MANAGEMENT, DALLAS AREA CHAPTER** is Defendant/Respondent and that said witness is to bring and produce in said Court, at said time and place a certain **ALL MINUTES, BYLAWS AND AGREEMENTS WHICH AUTHORIZE ATTORNEYS ROBERT BRAGALONE, SONA GARCIA, PETER VOGEL, AND LAW FIRMS GORDON REES AND GARDERE, AND FOR ANY OTHER ATTORNEYS OR LAW FIRMS TO REPRESENT SIM DALLAS AREA CHAPTER IN THIS CONFLICT, IN ALL OF ITS COURTS AND CAUSE NUMBERS SINCE MARCH 17, 2016**

desired as evidence in said civil action, to-wit; in a certain suit pending in said court, and there remain from day to day and term to term, until discharged by the Court. Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena is issued or a district court in the county in which the subpoena is served, and may be punished by fine or confinement, or both.

HEREIN FAIL NOT, but of this writ make due return showing how you have executed the same.

GIVEN UNDER MY HAND AND SEAL OF SAID COURT, at office in the City of Dallas,

ON THIS THE 28TH DAY OF AUGUST 2018.

Issued at request of:

PETER BEASLEY

P O BOX 831359

RICHARDSON TX 75083

972-365-1170



ATTEST: FELICIA PITRE

Clerk of the District Courts

Dallas County, Texas

By _____, Deputy

GAY LANE

EXHIBIT 1

(page 8 of 9)

FORM 316 SUBPOENA DUCES TECUM (CIVIL)

OFFICER'S RETURN
CASE NO. DC-18-05278
PETER BEASLEY

VS.

SOCIETY OF INFORMATION MANAGEMENT, DALLAS AREA CHAPTER ET AL

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and not executed as to the witness for the following reason:

I actually and necessarily traveled _____ miles in the service of this Subpoena, in
addition to any other mileage I may have traveled in the service of other process in this cause
during the same trip.

Summoning Witness \$ _____

Mileage \$ _____

Total \$ _____

Sheriff _____ County,
Texas

By _____

Deputy

PETER BEASLEY,

Plaintiff,

v.

SOCIETY OF INFORMATION
MANAGEMENT, DALLAS AREA
CHAPTER, et al.,

Defendant.

§
§
§
§
§
§
§
§
§
§

IN THE DISTRICT COURT

DALLAS COUNTY, TEXAS

191st JUDICIAL DISTRICTDECLARATION OF JANIS O'BRYAN
IN SUPPORT OF MOTION TO QUASH SUBPOENA DUCES TECUM

My name is Janis O'Bryan, my date of birth is September 15, 1956 and my address is 2677 Waterford Way, Carrollton, TX 75006. I declare the following statements to be true and correct under the penalty of perjury.

1. "My name is Janis O'Bryan. I am over eighteen (18) years of age, have never been convicted of a crime involving moral turpitude, and am fully competent in all respects to make this Declaration. The facts stated in this Declaration are within my personal knowledge, true, and correct.

2. I understand that Peter Beasley has served SIM-DFW's attorneys a Subpoena Duces Tecum for my testimony as a witness on behalf of Peter Beasley in a hearing in the 191st Judicial District Court of Dallas County, Texas set on September 20, 2018 at 1:00 p.m. While the Subpoena is not clear, I understand from the accompanying document request that Plaintiff seeks my testimony regarding his pending Second Amended Motions to Show Authority, Disqualify Attorneys and Request for Mediation.

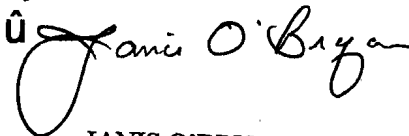
3. In addition to my testimony, Plaintiff seeks "All Minutes, Bylaws and Agreements which authorize attorneys Robert Bragalone, Sona Garcia, Peter Vogel and law firms Gordon Rees and Gardere, and for any other attorneys or law firms to represent SIM Dallas Area Chapter in this Conflict, in all of its Courts and Cause Numbers since March 17, 2016."

4. The documents and information that Plaintiff seeks have been previously provided as part of Defendants' Response to Plaintiff's Amended Rule 12 Motion, Motion to Disqualify Attorneys, Motion for Attorney's Fees, and Request for Mediation filed on February 28, 2018. The only new information not currently in Plaintiff's possession is the attached May 7, 2018 minutes that affirm and ratify the retention of Gordon & Rees and Gardere Wynne Sewell LLP on April 4, 2016 in the on-going litigation with Plaintiff. See **Exhibit A**, a true and correct copy of the May 7, 2018 SIM DFW Board of Directors Meeting Minutes.

5. I will not be available to attend and testify at the hearing on September 20, 2018. I have a pre-planned family trip and will be out of town.

Executed this 10th day of September, 2018.

By:



JANIS O'BRYAN

EXHIBIT 2

(page 1 of 1)

EXHIBIT C



SIMDFW Board of Directors Action Agenda
Monday, May 7, 2018 4:15 pm
Lakeside Room at North Side Building

Meeting Start: 4:27
Meeting End: 5:40

Attended: [REDACTED]
[REDACTED]

Not in attendance: [REDACTED]
[REDACTED]

1. Vote to accept Minutes from previous meeting

- [REDACTED]

2. Vote to accept Consensus Agenda – [REDACTED]

3. President's Agenda Items ([REDACTED])

- [REDACTED]
- [REDACTED]
[REDACTED]

4. VP reports ([REDACTED])

5. Membership reports ([REDACTED])

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
 - [REDACTED]
 - [REDACTED]

6. Programs report ([REDACTED])

- [REDACTED]
 - [REDACTED]
[REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
[REDACTED]
 - [REDACTED]

- [REDACTED]
[REDACTED]
[REDACTED]
 - [REDACTED]
 - [REDACTED]
[REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
[REDACTED]
- [REDACTED]
- [REDACTED]

7. Treasury/Finance report ([REDACTED])

8. Secretary’s report ([REDACTED])

9. Marketing ([REDACTED])

- [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
[REDACTED]
- [REDACTED]

10. Community Outreach report ([REDACTED])

- [REDACTED]
[REDACTED]

11. Executive Career Council (ECC) report ([REDACTED])

12. Sponsorship Management report ([REDACTED])

13. Academic Liaison report ([REDACTED])

14. Investments Update ([REDACTED])

15. Other Items

- [REDACTED] – Regarding the litigation with Peter Beasley, moves that the Board affirm and ratify that on April 4, 2016 SIM-DFW agreed that the law firms of Gordon & Rees and Gardere Wynne Sewell LLP were retained to be lawyers to represent SIM-DFW and its Board in litigation with Peter Beasley and both law firms continue to represent SIM-DFW and its Board in current litigation with Peter Beasley. As of April 1, 2018 Gardere Wynne Sewell LLP merged with Foley & Lardner LLP, and as a result now Foley Gardere, Foley & Lardner LLP represents SIM-DFW and its Board with Gordon & Rees . Second by [REDACTED], unanimous approval.

16. Meeting adjourned at 5:40

APPENDIX A: PROGRAMS COMMITTEE VOTING AGENDA:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

CAUSE NO. DC-18-05278

PETER BEASLEY,

Plaintiff,

v.

SOCIETY OF INFORMATION
MANAGEMENT, DALLAS AREA
CHAPTER, et al.,

Defendant.

§
§
§
§
§
§
§
§
§
§

IN THE DISTRICT COURT

DALLAS COUNTY, TEXAS

191st JUDICIAL DISTRICT

DECLARATION OF NELLSON BURNS
IN SUPPORT OF MOTION TO QUASH SUBPOENA DUCES TECUM

My name is Nellson Burns, my date of birth is 6/3/1975 ^{HB} and my address is 6675 Lakewood, Dallas, Texas 75214. I am over eighteen (18) years of age, have never been convicted of a crime involving moral turpitude, and am fully competent in all respects to make this Declaration. The facts stated in this Declaration are within my personal knowledge, true, and correct. I further declare the following statement to be true and correct under the penalty of perjury:

1. I have been a member of SIM-DFW for nearly 10 years. I currently serve on the SIM-DFW Board of Directors as the Chair of the SIM-DFW Chapter. My term as Chair ends on December 31, 2018. Prior to 2017, I was the Vice-Chair of the Board of Directors from January 1, 2015 to December 31, 2016.

2. Peter Beasley sued SIM-DFW for the first time on March 17, 2016. I was notified that Peter Beasley had filed suit against SIM-DFW after he informally served his lawsuit by email on me and the then Past Chair of the Board of Directors, Larry Freed.

Larry and I notified the then-Chair, Janis O'Bryan, and she contacted SIM-DFW's long-time counsel, Peter Vogel, a partner at the law firm then known as Gardere Wynne Sewell LLP, to seek his legal counsel and ask him to assist with an informal negotiation to resolve the dispute. Mr. Vogel has served as the legal counsel for SIM-DFW since 2002.

3. In addition to securing the legal services of Mr. Vogel, Janis O'Bryan also notified The Hartford Financial Services Group, Inc. (The Hartford") of the lawsuit as required by the Society for Information Management's Directors' and Officers' Liability Insurance policy. The Hartford assigned Gordon Rees Scully Mansukhani, LLP as defense counsel. On April 4, 2016, we invited Bob Bragalone and Sofia Garcia from Gordon & Rees to attend a meeting with the SIM-DFW Executive Committee to introduce themselves and discuss our response to Peter Beasley's lawsuit. The April 4, 2016 Attorney-Client Privileged meeting was hosted by Peter Vogel at Gardere Wynne Sewell LLP's offices, and was limited to the SIM-DFW Executive Committee members and our counsel, Peter Vogel and Dwight Francis, of Gardere Wynne Sewell LLP and Sofia Garcia from Gordon & Rees. This meeting was intended to be, and was in fact, a meeting to discuss the Chapter's response to Peter Beasley's lawsuit and for our Executive Committee to provide information to our outside counsel to aid in the defense of Peter Beasley's claims.

4. At all times since April 2016 SIM-DFW has been represented in the legal dispute with Peter Beasley by Robert Bragalone and Sofia Garcia at Gordon & Rees and Peter Vogel at Gardere Wynne Sewell LLP (now Foley Gardere, Foley & Lardner LLP).

5. I understand that Peter Beasley has served SIM-DFW's attorneys a Subpoena Duces Tecum for my testimony as a witness on behalf of Peter Beasley in a hearing in the 191st Judicial District Court of Dallas County, Texas set on September 20, 2018 at 1:00 p.m. While the Subpoena is not clear, I understand from the accompanying document request that Plaintiff seeks my testimony regarding his pending Second Amended Motions to Show Authority, Disqualify Attorneys and Request for Mediation.

6. In addition to my testimony, Plaintiff seeks "All Minutes, Bylaws and Agreements which authorize attorneys Robert Bragalone, Sona Garcia, Peter Vogel and law firms Gordon Rees and Gardere, and for any other attorneys or law firms to represent SIM Dallas Area Chapter in this Conflict, in all of its Courts and Cause Numbers since March 17, 2016."

7. The documents and information that Plaintiff seeks have been previously provided as part of Defendants' Response to Plaintiff's Amended Rule 12 Motion, Motion to Disqualify Attorneys, Motion for Attorney's Fees, and Request for Mediation filed on February 28, 2018. The only new information not currently in Plaintiff's possession is the attached May 7, 2018 minutes that affirm and ratify the retention of Gordon & Rees and Gardere Wynne Sewell LLP on April 4, 2016 in the on-going litigation with Plaintiff. See **Exhibit A**, a true and correct copy of the May 7, 2018 SIM DFW Board of Directors Meeting Minutes.

8. I will not be available to attend and testify at the hearing on September 20, 2018. I have a pre-planned business trip in India. I will be out of the country from September 15, 2018 through September 22, 2018.

//

Executed this 10th day of September, 2018.

By: 
NELLSON BURNS



SIMDFW Board of Directors Action Agenda
Monday, May 7, 2018 4:15 pm
Lakeside Room at North Side Building

Meeting Start: 4:27
Meeting End: 5:40

Attended: [REDACTED]
[REDACTED]

Not in attendance: [REDACTED]
[REDACTED]

1. Vote to accept Minutes from previous meeting

- [REDACTED]

2. Vote to accept Consensus Agenda – [REDACTED]

3. President's Agenda Items ([REDACTED])

- [REDACTED]
- [REDACTED]
[REDACTED]

4. VP reports ([REDACTED])

5. Membership reports ([REDACTED])

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
 - [REDACTED]
 - [REDACTED]

6. Programs report ([REDACTED])

- [REDACTED]
 - [REDACTED]
[REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
[REDACTED]
 - [REDACTED]

- [REDACTED]
[REDACTED]
[REDACTED]
 - [REDACTED]
 - [REDACTED]
[REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
[REDACTED]
- [REDACTED]
- [REDACTED]

7. Treasury/Finance report ([REDACTED])

8. Secretary's report ([REDACTED])

9. Marketing ([REDACTED])

- [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
[REDACTED]
- [REDACTED]

10. Community Outreach report ([REDACTED])

- [REDACTED]
[REDACTED]

11. Executive Career Council (ECC) report ([REDACTED])

12. Sponsorship Management report ([REDACTED])

13. Academic Liaison report ([REDACTED])

14. Investments Update ([REDACTED])

15. Other Items

- [REDACTED] – Regarding the litigation with Peter Beasley, moves that the Board affirm and ratify that on April 4, 2016 SIM-DFW agreed that the law firms of Gordon & Rees and Gardere Wynne Sewell LLP were retained to be lawyers to represent SIM-DFW and its Board in litigation with Peter Beasley and both law firms continue to represent SIM-DFW and its Board in current litigation with Peter Beasley. As of April 1, 2018 Gardere Wynne Sewell LLP merged with Foley & Lardner LLP, and as a result now Foley Gardere, Foley & Lardner LLP represents SIM-DFW and its Board with Gordon & Rees . Second by [REDACTED], unanimous approval.

16. Meeting adjourned at 5:40

APPENDIX A: PROGRAMS COMMITTEE VOTING AGENDA:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

CAUSE NO. 296-05741-2017

PETER BEASLEY,	§	IN THE DISTRICT COURT
	§	
Plaintiff,	§	
	§	
v.	§	
	§	
SOCIETY OF INFORMATION	§	COLLIN COUNTY, TEXAS
MANAGEMENT, DALLAS AREA	§	
CHAPTER, JANIS O'BRYAN, NELLSON	§	
BURNS,	§	
	§	
Defendants.	§	296TH JUDICIAL DISTRICT

**DEFENDANTS' RESPONSE TO PLAINTIFF'S AMENDED RULE 12 MOTION,
MOTION TO DISQUALIFY ATTORNEYS, MOTION FOR ATTORNEYS' FEES, AND
REQUEST FOR MEDIATION AND MOTION SEEKING SANCTIONS**

TO THE HONORABLE JUDGE OF SAID COURT:

This case arises from a dispute between Peter Beasley, a former member of Defendant Society for Information Management, Dallas Area Chapter ("SIM-DFW"), a professional organization for Information Technology ("IT") professionals, and the Executive Committee. In March 2016 Peter Beasley sued the organization in Dallas County District Court.¹ From March 2016 through today, nearly two years later, SIM-DFW has been represented by Gordon & Rees and Gardere Wynne Sewell LLP as defense counsel. Peter Beasley's Amended Motion to Show Authority, Disqualify Attorneys; Request Attorneys' Fees and for Mediation is meritless, groundless, and brought purely for the purpose of harassment.

¹ *Peter Beasley v. Society of Information Management, Dallas Area Chapter*, Cause No. DC-16-03141 in the 162nd Judicial District Court of Dallas County, Texas.

At no time in the last two years of litigation has Peter Beasley followed through on his threats challenging SIM-DFW's choice of defense counsel.² However, after non-suiting the Dallas County lawsuit, SIM-DFW was declared a prevailing party on Peter Beasley's declaratory judgment claims and was awarded \$211,032.02 in attorneys' fees. Since that November 3, 2017 Order awarding fees to SIM-DFW, Peter Beasley has been in nearly non-stop litigation mode, filing motions, petitions, appeals, and this "new" lawsuit in Collin County seeking to re-litigate the Dallas County lawsuit in a new county with a new judge, and, if he has his way, new defense counsel.³

Peter Beasley's Motion, as well as his requests for relief in the form of attorneys' fees and an order compelling mediation, must be denied. Additionally, SIM-DFW should be awarded the reasonable and necessary attorneys' fees incurred in responding to and arguing in opposition to these baseless and groundless motions pursuant to TEXAS RULE OF CIVIL PROCEDURE 13.

I. **OBJECTION TO HEARING**

TEXAS RULE OF CIVIL PROCEDURE 12 requires that the movant serve a notice of hearing upon the challenged attorney at least ten days before the hearing on the motion. The hearing per the Court's docket is March 6, 2018 at 9:00 a.m. Peter Beasley served an unsigned Fiat on February 19, 2018. Plaintiff untimely served his hearing notice on February 26th at 8:55 p.m., 8 days before the scheduled hearing. Defendants hereby object to the hearing as taking place without proper notice.

² Peter Beasley filed a Motion to Disqualify Peter Vogel in November 2017 but abandoned that motion.

³ See Chart of Motion and Petitions filed by Peter Beasley since November 3, 2017 Order, attached hereto as **Exhibit A**.

II. ARGUMENT & AUTHORITIES

A. SIM-DFW's Defense Counsel Have Authority To Defend This Lawsuit.

Peter Beasley claims that defense counsel do not have the authority to represent SIM-DFW, its members, and the individual defendants, SIM-DFW Executive Committee Members, Janis O'Bryan, and Nellson Burns.⁴ Citing only general authority for the principal that representation must be authorized, Peter Beasley misses the mark by failing to acknowledge that at several times during this litigation SIM-DFW, by and through the acts of its members, has expressly authorized Gardere Wynne Sewell LLP and Gordon & Rees's authority to defend this litigation.

Whether by appearance at hearings, representation at multiple depositions in the Dallas County lawsuit, including Peter Beasley's own, and the dozens of filings in Dallas County Civil District Court, the United States District Court for the Northern District of Texas, Dallas County Court at Law, and now in Collin County, the same counsel has consistently appeared for the defendants. This is true whether those defendants were SIM-DFW alone or some combination of SIM-DFW and its Executive Committee Members.⁵ As the attached declaration of Janis O'Bryan verifies, when SIM-DFW learned of the lawsuit, SIM-DFW, contacted attorney Peter Vogel to ask him to contact Peter Beasley and seek an informal resolution of the lawsuit.⁶

⁴ See, Plaintiff's Motion, filed February 23, 2018, at ¶¶ 7-10.

⁵ In the Dallas County lawsuit Peter Beasley named Janis O'Bryan, Nellson Burns, Larry Freed, Mike Brown, Patrick Bouldin, and Joan Holman as individual defendants. Each of these individually named defendants were members of SIM-DFW and members of the Executive Committee at the time they were sued. All claims against the individual defendants were dismissed in the Dallas County lawsuit.

⁶ See Declaration of Janis O'Bryan, attached hereto as **Exhibit B**, at ¶ 4.

Peter Vogel, consistent with Janis O'Bryan's request, contacted Peter Beasley within days of filing his lawsuit and notified him that he represented SIM-DFW.⁷ Additionally, SIM-DFW's Executive Committee met on April 4, 2016 and approved Gardere Wynne Sewell LLP and Peter Vogel to represent SIM-DFW, and on April 5, 2016 SIM-DFW signed an Engagement Letter with Gardere Wynne Sewell LLP.⁸

At or about the same time that Peter Vogel was contacting Peter Beasley, Janis O'Bryan notified The Hartford of the lawsuit.⁹ The Hartford provides director's and officer's insurance to SIM-DFW.¹⁰ The tender of the notice of the lawsuit to The Hartford triggered The Hartford's obligation under the terms of SIM-DFW's directors and officer's insurance policy to assign defense counsel. Gordon Rees Scully Mansukhani, LLP is the assigned defense counsel.¹¹

To rebut a Rule 12 motion to show authority, the challenged attorney must appear before the trial court to show his authority to act on behalf of his or her client. Tex. R. Civ. P. 12; *R.H. v. Smith*, 339 S.W.3d 756, 762 (Tex. App. – Dallas 2011, no pet.); *Boudreau v. Fed. Trust Bank*, 115 S.W.3d 740, 741 (Tex. App. –Dallas 2003, pet. denied). The challenged attorney bears the burden of proof to show the requisite authority. *Smith*, 339 S.W.3d at 762; *Boudreau*, 115 S.W.3d at 741. In resolving the motion, the court considers and weighs the evidence presented at the hearing. *Smith*, 339 S.W.3d at 762-63. A challenged attorney satisfies his burden if he produces an affidavit or testimony from his client indicating the attorney was retained to provide

⁷ See Declaration of Peter Vogel, attached hereto as **Exhibit C**, at ¶ 5.

⁸ *Id.* at Exhibit 1.

⁹ See **Exhibit B**, at ¶ 5.

¹⁰ Notably, the policy was provided to Peter Beasley as part of discovery in the Dallas County lawsuit.

¹¹ **Exhibit B** at ¶ 5.

representation in the case. *See Boudreau*, 115 S.W.3d at 742; *Spigener v. Wallis*, 80 S.W.3d 174, 184 (Tex. App. –Waco 2002, no pet.).

The declaration of Janis O’Bryan is sufficient to show the requisite authority for Gordon & Rees and Gardere Wynne Sewell, LLP. Peter Beasley’s Motion to Show Authority must be denied.

B. Representing the SIM-DFW in this Dispute Necessarily Includes Representation of its Members.

Peter Beasley argues through a tortured reading of Texas Disciplinary Rule 1.12, that the rule prohibits defense counsel from representing the members of SIM-DFW because *only* the organization is the defendant/client, not its constituent members. Notably, Peter Beasley cleverly leaves out the context for this on-going dispute about the representation of SIM-DFW members. In December 2016 Peter Beasley announced his intent, via email, to contact members of SIM-DFW to secure “witness statements”.¹²

From: Peter Beasley [<mailto:pbeasley@netwatchsolutions.com>]
Sent: Friday, December 30, 2016 10:10 AM
To: Soña Garcia
Subject: Deposition dates - witness statements

Ms. Garcia, I understand you today realize that I am representing myself again.

What dates are you making O’Bryan and Kevin Christ available for deposition?

Also, I need to obtain some witness statements from several of the general SIM members. I’m simply letting you know.

I understand you want to take my deposition too. I’m OK with using your office for all of the remaining depositions.

Peter Beasley, CTO
Netwatch Solutions, Inc.
www.netwatchsolutions.com

Defense counsel understandably replied that if Peter Beasley was interested in securing discovery from SIM-DFW members, he must follow the TEXAS RULES OF CIVIL PROCEDURE and

¹² *See* Email exchange between Peter Beasley and Soña Garcia, dated December 30, 2016, attached hereto as **Exhibit D**.

conduct authorized discovery.¹³ What followed has been the cause of significant motions practice in the Dallas County lawsuit.

In response to this December 30, 2016 email there was concern that Peter Beasley would begin harassing SIM-DFW members regarding this lawsuit. Janis O'Bryan requested that counsel prepare a litigation update to the membership, which was done and sent out on December 31, 2016.¹⁴ Peter Beasley then filed a Motion to Compel seeking to depose Peter Vogel on issues related to that attorney-client communication that requested that SIM-DFW members contact defense counsel if they were contacted by Peter Beasley. When that motion was denied, Peter Beasley then argued to the Dallas County Court that he was entitled to seek witness statements from SIM-DFW members without defense counsel present because the members were his friends. The Court, of course, discouraged Peter Beasley from contacting the members on issues "relevant to the claims of liability that are asserted" and confirmed that "[defense] counsel has the right to say you must speak through [them] because those particular conversations could give rise to liability."¹⁵

For the next several months Peter Beasley continued to argue, at times through counsel but also while *pro se*, that he had a right to secure discovery from SIM-DFW members without defense counsel present and, incredibly, that communications defense counsel had with the membership were not privileged communications but were evidence of defamation.

¹³ *Id.*

¹⁴ This communication has been determined by the Dallas County Court to be an attorney-client privileged communication. Counsel will have the communication at the March 6, 2018 hearing, which can be presented to the Court for in camera review if the Court deems it necessary.

¹⁵ See Hearing Transcript excerpt, Motion to Compel and Motion for Continuance, February 13, 2017, attached hereto as **Exhibit E**.

On October 4, 2017 the Dallas County Court again confirmed that defense counsel's communications with SIM-DFW, *including its membership*, were attorney-client privileged communications. Peter Beasley non-suited his claims the following day.

In the pending Motion before this Court Peter Beasley again asserts "Vogel's, Bragalone's, and Garcia's utterly false presentation of the law and their insistence that they represent the individual SIM Dallas members is contemptible, and is a calculated approach to defame plaintiff, **and undermine his ability to obtain witness statements to prove-up his mounting damages.**"¹⁶ (Emphasis added). The key here is again Peter Beasley's insistence that he can speak to the members of the organization he sued and with which he has been engaged in a two-years long legal battle with to "obtain witness statements" without the presence of defense counsel. Each member of SIM-DFW, the organization which Peter Beasley sued first on March 17, 2016, sued again in Dallas County Court at Law on April 14, 2016, and sued for a third time in Collin County on November 30, 2017, is entitled to representation from SIM-DFW's duly authorized defense counsel in any and all discovery related to Peter Beasley's allegations.

Moreover, Peter Beasley has himself confessed that SIM-DFW is its members! In discovery attached to his initial petition (and in each set of written discovery served since) Peter Beasley has defined SIM-DFW as follows:¹⁷

¹⁶ See Plaintiff's Motion at ¶ 44.

¹⁷ See Plaintiff's First Requests for Production, attached to March 17, 2016 Original Petition for Injunctive Relief, attached hereto as **Exhibit F**.

DEFINITIONS AND INSTRUCTIONS

1. As used herein, the terms “SIM Dallas”, “you” and “your” shall refer to the SIM Dallas Chapter, its members, officers, board members, assistants, attorneys, agents, and all other natural persons or business or legal entities acting or purporting to act for or on behalf of SIM Dallas, whether authorized to do so or not.

Finally, Texas Disciplinary Rule 1.12, the very rule upon which Peter Beasley relies, states unequivocally in its comments that a lawyer that represents an organization “represents the organization as distinct from its directors, officers, employees, members, shareholders, or other constituents” but that “[u]nlike individual clients, an organization can speak and decide only through its agents or constituents....” In this instance, SIM-DFW’s members are its constituents precisely *because* Peter Beasley believes that the members have information regarding SIM-DFW’s acts (or omissions) that may give rise to liability. Defense counsel’s authority to represent SIM-DFW as established in Section II.B *supra* extends to its members.

C. Peter Beasley Motion to Disqualify is Fatally Flawed.

As an initial matter, disqualification of attorneys is disfavored. It is such a severe remedy that courts must follow “exacting standards” when considering a motion to disqualify. *In re Nitla S.A. de C.V.*, 92 S.W.3d 419, 422 (Tex.2002). In support of his Motion to Disqualify Peter Beasley argues the following:

1. All three attorneys (Vogel, Bragalone, and Garcia) “committed torts” against SIM-DFW making themselves fact witnesses and prohibiting themselves from being counsel;
2. Gordon & Rees cannot represent Defendants O’Bryan and Burns because their interests oppose those of SIM-DFW;

3. Peter Vogel is disqualified because he has a personal interest in the outcome of the litigation, he has represented Peter Beasley before, and he is earning attorneys' fees in this matter; and,

4. All three attorneys (Vogel, Bragalone, and Garcia) are bullies.¹⁸

None of these grounds support disqualification and his Motion should be denied.

1. Peter Beasley's Motion is Not Timely Filed.

Peter Beasley acknowledges, and judicially admits in his multiple filings before this Court, that this case began on March 2016 in Dallas County.¹⁹ As noted above and in the attached declarations of Janis O'Bryan and Peter Vogel, defense counsel has been representing Defendants since March 2016. Peter Beasley filed this Motion to Disqualify in February 2018. Nearly two years after defense counsel initially made their appearance.

With regard to the alleged torts committed by defense counsel, Peter Beasley's Second Amended Petition identifies those torts as "Tortuous (sic) Interference with Contractual Relationship"²⁰ which is further described as communications defense counsel had with Peter Beasley's then-attorneys to educate counsel on the background of the case and to encourage Peter Beasley to dismiss his groundless claims.²¹ These communications occurred in May 2016, October 2016, and December 2016.²² Peter Beasley has been aware of the existence of these communications for well over a year.

¹⁸ This is not a ground supporting disqualification. In the interest of preserving judicial resources, Defendants do not address this ridiculous assertion.

¹⁹ See e.g., Plaintiff's Second Amended Petition, at ¶31.

²⁰ Plaintiff's Second Amended Petition, ¶¶ 78-89.

²¹ *Id.*, see also Plaintiff's Motion, at ¶¶ 32-37.

²² See Letters from Defense Counsel to Peter Beasley's counsel, attached hereto as **Exhibit G**.

Peter Beasley further claims that all three attorneys are fact witnesses because they participated in an April 4, 2016 meeting to discuss the defense of this very litigation with the SIM-DFW Executive Committee and additionally, Peter Vogel made himself a fact witness in December 2016 because he provided the above-described attorney-client protected litigation status update to SIM-DFW.²³ All of these events took place well over a year ago and in both instances the attorney-client privileged nature of both the meeting and the communication have been hotly litigated in the Dallas County lawsuit, meaning Peter Beasley has been aware of these communications for at least a year, possibly longer in the case of the April 4, 2016 meeting.

Motions to disqualify must be filed a reasonable time after the moving party learned of the alleged conflict. *See Vaughn v. Walther*, 875 S.W.2d 690, 690 (Tex.1994) (motion to disqualify filed six months after conflict was discovered was not timely); *In re Trujillo*, 511 S.W.3d 726, 729-30 (Tex.App.—El Paso 2015, orig. proceeding) (motions to disqualify, filed 16 months after learning of conflict and shortly after opposing party set hearing date, was not timely). Because Peter Beasley has waited at least a year, and in some instances far longer, to raise these alleged conflicts with the Court, his Motion to Disqualify is untimely and should be denied.

2. *Defendants O’Bryan and Burns’s Interests Align with SIM-DFW and There is No Conflict of Interest that Supports Gordon & Rees’s Disqualification.*

Peter Beasley initially joined Janis O’Bryan to the Dallas County lawsuit on March 29, 2016 (claims against O’Bryan were then dismissed by nonsuit in February 2017) and later joined Nellson Burns on June 27, 2016 (similarly claims against Burns were dismissed in February 2017, Peter Beasley later had his company, Netwatch Solutions, name Burns in an Intervention filed as part of the Dallas County lawsuit). Both O’Bryan and Burns were

²³ Plaintiff’s Motion, at ¶ 31 and ¶ 38.

represented by Gordon & Rees during the entire time that claims were pending against them and neither Peter Beasley nor any of his attorneys filed a motion to disqualify Gordon & Rees from representing O'Bryan and Burns. Thus, asserting this alleged conflict as a ground for disqualification is as untimely as the allegation that defense counsel are fact witnesses.

But this ground supporting disqualification fails for an additional reason. Peter Beasley relies on his derivative claim to argue that because he has claimed O'Bryan and Burns have breached their duties to SIM-DFW, they are adverse to SIM-DFW and must retain their own attorney to defend this lawsuit. Peter Beasley argues this even though he acknowledges that “most derivative actions are a normal incident of an organization’s affairs to be defended by the organization’s lawyer like any other suit.”²⁴

The mere allegation by plaintiff that an individual defendant may have been engaged in acts contrary to the best interests of an organizational defendant is not sufficient to establish a conflict of interest. In fact, Peter Beasley’s alleged list of “serious wrongdoing” by O'Bryan and Burns is simply a catalog of Peter Beasley’s disagreement with SIM-DFW’s defense of the lawsuit and an attempt to convert the allegations upon which he bases his claims into “facts” sufficient to support a motion to disqualify!²⁵ Moreover, even if the recitation of “serious wrongdoing” somehow convinced this Court that SIM-DFW is adverse to O'Bryan and Burns, Peter Beasley’s claim against O'Bryan and Burns is a so-called “derivative action” and derivative actions are not available against a non-profit organization. *Bridgewater v. Double Diamond-Delaware, Inc.* 2011 U.S. Dist. LEXIS 47248, *25 (N.D. Tex. April 29, 2011) (holding

²⁴ See Plaintiff’s Motion, at ¶ 20.

²⁵ *Id.* at ¶49(a)-(v).

that the Texas Non-Profit Corporations Act does not provide a derivative suit mechanism against a non-profit by a non-profit's members).

In truth, Peter Beasley's claim that O'Bryan and Burns are adverse to SIM-DFW is nothing more than a naked attempt to strip O'Bryan and Burns from their defense counsel. Comment 17 to Rule 1.06 of the TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT identifies the danger in considering Peter Beasley's argument:

Raising questions of conflict of interest is primarily the responsibility of the lawyer undertaking the representation. In litigation, a court may raise the question when there is reason to infer that the lawyer has neglected the responsibility...Where the conflict is such as clearly to call in question the fair or efficient administration of justice, opposing counsel may properly raise the question. **Such an objection should be viewed with great caution, however, for it can be misused as a technique of harassment.**²⁶

Peter Beasley's Motion seeking disqualification of Gordon & Rees from representing O'Bryan and Burns is nothing more than pure harassment and should be denied.

3. *Peter Vogel is Both a Member of SIM-DFW and Outside Counsel and has No Conflict of Interest.*

Peter Beasley initially conferred with defense counsel on a potential motion to disqualify Peter Vogel in February 2017 –one year ago.²⁷ In that email exchange Peter Beasley confirmed that Peter Vogel has never represented Peter Beasley *individually* but he has, consistent with his representation in this lawsuit, provided advice to all members of SIM-DFW's Executive Committee regarding the discharge of their duties. In fact, Peter Beasley judicially admits as much in his Motion: "Before this conflict began, at multiple times in 2015 and 2016,

²⁶ Texas Disciplinary Rules of Professional Conduct, Rule 1.06, Cmt. 17. (Emphasis added).

²⁷ See, Email exchange between Peter Beasley and Peter Vogel, dated February 27-March 1, 2017, attached hereto as **Exhibit H**.

Attorney Peter Vogel individually met with and advised Plaintiff, Peter Beasley, on his personal responsibilities as a director for SIM.”²⁸

This admission and the attached email exchange reveal Peter Beasley’s motive in filing this Motion to Disqualify — he recognizes that the danger in having opposing counsel experienced with his history in SIM-DFW and litigation tactics undercuts any advantage he may have temporarily received by forum-shopping and re-filing his claims in Collin County. Further, not content to simply smear the reputations of defense counsel in legal filings, Peter Beasley also displays his spite by acknowledging that he will move to expel Peter Vogel when he is “successfully reinstated” as a member of SIM-DFW:

66. JOB ONE upon Peter Beasley’s successful reinstatement to his position as Membership Chair will be to lead his Membership Committee to draft a resolution to expel Peter Vogel for how he, not Peter Beasley, has all but destroyed the nationwide reputation of SIM Dallas. It’s for this reason, Attorney Peter Vogel’s having a personal interest on the merits of the case, that he should have declined representation in the first place, and for which he now must be disqualified.

Putting aside the hubris involved in suggesting that Peter Beasley would ever again be a member of SIM-DFW, the clear message is that Peter Beasley would stop at nothing to clear the slate of defense counsel and force Defendants to proceed with new attorneys. However, Peter Beasley fails wholly to support his request for disqualification and his motion should be denied.

D. Peter Beasley’s Motion for Attorneys’ Fees is Based on a Poor Understanding of the Law Regarding the Nature of Derivative Actions.

Peter Beasley’s Motion also requests attorneys’ fees and in support of the request makes a circular argument that attorneys’ fees, if awarded as part of SIM-DFW’s response to his motion seeking disqualification or as part of any request by SIM-DFW for Rule 13 sanctions, should be

²⁸ Plaintiff’s Motion at ¶ 67.

paid by Janis O'Bryan and Nellson Burns to SIM-DFW because they are adversarial to SIM-DFW! Peter Beasley supports this preposterous claim by pointing to his "derivative claim" against Janis O'Bryan and Nellson Burns²⁹ and arguing that because he has made an allegation that O'Bryan and Burns acted contrary to the interests of SIM-DFW, they are adversaries to SIM-DFW in this lawsuit and therefore they, not he, owe SIM-DFW for the fees incurred in defense of Peter Beasley's claims.

Peter Beasley **cannot maintain a derivative action** against a non-profit organization like SIM-DFW because there is no statutory authority for such a claim. As cited in SIM-DFW's Brief in Support of Rule 12(B)(6) Motion to Dismiss, filed on April 29, 2016, the District Court for the Northern District of Texas held in *Bridgewater v. Double Diamond-Delaware, Inc.* that the Texas Non-Profit Corporations Act does not provide a derivative suit mechanism against a non-profit by a non-profit's members. 2011 U.S. Dist. LEXIS 47248, *25 (N.D. Tex. April 29, 2011). *See also, Flores v. Star Cab Coop. Ass'n.*, No. 07-06-0306-CV, 2008 Tex. App. LEXIS 6582, at *22 (App. Aug. 28, 2008) (declining to overrule the trial court's dismissal of appellants' derivative claim and citing the absence of statutory authorization for derivative actions under the Non-Profit Corporation Act).

Given that the derivative claim is itself subject to dismissal, Peter Beasley's claim for attorneys' fees on the basis of derivative claim must be denied.

²⁹ See Plaintiff's Second Amended Petition, at ¶¶ 102-106. Peter Beasley states generally that he "asserts a derivative claim on behalf of SIM" and O'Bryan and Burns have "failed to act in good faith, with reasonable care, and in the best interest of SIM and its members" and seeks damages in the amount of attorneys' fees incurred "this derivative action" and that pursuant to principals of equity the attorneys' fees be "distributed to [Peter Beasley] personally to avoid unjust enrichment because this action has conferred a substantial benefit on the corporation."

III.

RESPONSE TO REQUEST FOR MEDIATION

Peter Beasley also argues that defense counsel are responsible for the length of the two-year litigation and the lack of meaningful settlement discussions between the parties. Peter Beasley fails to disclose to this Court that a key reason the parties have been unable to mediate is because Peter Beasley's demands have always included an absolute requirement that Peter Beasley be re-admitted into SIM-DFW! Whether or not re-admission is even a remedy available to Peter Beasley, and Defendants maintain that it is not due to the application of the doctrine of judicial non-intervention, Peter Beasley's "non-negotiable" demands have made mediation futile.

The history of this two-year litigation reveals a deep seated animosity between the parties. Nevertheless, SIM-DFW, not Peter Beasley, initially extended the olive branch to try and resolve the dispute.³⁰ SIM-DFW also engaged in extensive discussions with Peter Beasley's counsel at various points during the Dallas County lawsuit regarding selection of mediators (Peter Beasley objected to the first mediator assigned, Dawn Estes, due to her prior employment at Gardere Wynne Sewell LLP), and regarding the deadline for completing mediation. Peter Beasley's counsel during much of 2017 did not make any effort to pursue mediation. Nevertheless, the parties again discussed a potential resolution to the post-final judgment disputes in December 2017.

Accordingly and for the reasons argued above, Defendants respectfully request to be relieved of any obligation to mediate if this matter remains in Collin County.

³⁰ **Exhibit B**, O'Bryan Declaration at ¶4.

IV.
MOTION FOR RULE 13 SANCTIONS

The entirety of Peter Beasley's motion seeking to disqualify Defendants' counsel is pure harassment. Peter Beasley's litigation tactics know no bounds. Not content to engage in rank forum-shopping he also seeks to clear the decks and force Defendants to proceed without the benefit of counsel's two years of experience with Peter Beasley. None of the arguments put forward by Peter Beasley have any legal merit.

Texas Rule of Civil Procedure 13 provides an avenue for the Court to impose sanctions in the face of this type of litigation behavior:

The signatures of attorneys **or parties** constitute a certificate by them that they have read the pleading, motion, or other paper; that to the best of their knowledge, information, and belief formed after reasonable inquiry the instrument is not groundless and brought in bad faith or groundless and brought for the purpose of harassment. * * * If a pleading, motion or other paper is signed in violation of this rule, the court, upon motion or upon its own initiative, after notice and hearing, shall impose an appropriate sanction available under Rule 215-2b, upon the person who signed it, a represented party, or both.

* * *

'Groundless' for purposes of this rule means no basis in law or fact and not warranted by good faith argument for the extension, modification, or reversal of existing law.

(Emphasis added).

TEXAS RULE OF CIVIL PROCEDURE 13 dictates that in signing a pleading, motion, or other paper, counsel, or a party if proceeding pro se, certifies that he read the document and that the allegations contained in it are, to the best of his knowledge, neither (1) groundless and brought in bad faith or (2) groundless and brought for the purposes of harassment. *Karagounis v. Property Co. of America*, 970 S.W.2d 761, 764 (Tex. App. –Amarillo 1998, writ. denied) (citing *Monroe v. Grider*, 884 S.W.2d at 817; *McCain v. NME Hosps., Inc.*, 856 S.W.2d 751, 757 (Tex.

App. –Dallas 1993, no writ). Rule 13 is a means to “check abuses in the pleading process, i.e. to insure that at the time the challenged pleading was filed the litigant’s position was factually well grounded and legally tenable.” *Home Owners Funding Corp. v. Scheppler*, 815 S.W.2d 884, 889 (Tex. App. –Corpus Christi 1991, no writ); *Karagounis v. Property Co. of America*, 970 S.W.2d 761, 764 (Tex. App. –Amarillo 1998, writ. denied).)

A groundless pleading is one that has no basis in law or fact and is not warranted by a good-faith argument for the extension, modification, or reversal of existing law. *GTE Comms. Sys. v. Tanner*, 856 S.W.2d 725, 730 (Tex. 1993). Courts use an objective standard in determining whether the party and attorney made a reasonable inquiry into the legal and factual bases of the claim; to decide whether the investigation was reasonable, the court looks to the facts available to the litigant and the circumstances at the time the party filed the pleading. *Tarrant Cty. v. Chancey*, 942 S.W.2d 151, 155 (Tex. App. –Fort Worth 1997, no writ); *Griffin Indus. v. Grimes*, 2003 WL 1911993 (Tex. App. –San Antonio 2003, no pet.).

The facts available to Peter Beasley at the time he filed his Rule 12 Motion to Show Authority are clear. In the Dallas County lawsuit Peter Beasley received a copy of The Hartford Director’s and Officer’s Policy which by its terms provides for a defense of a claim against the entity or an insured person and allows the insurer to assign defense counsel. Additionally, the history of the litigation, Peter Vogel’s initial communication with Peter Beasley following the filing of the Original Petition in Dallas County, and attendance of Executive Committee members at hearings, depositions, and Peter Beasley’s own deposition clearly demonstrate that Peter Vogel had authority to defend SIM-DFW at all times. There is simply no basis for Peter Beasley’s Rule 12 Motion.

Similarly, the grounds alleged supporting disqualification have no basis in law or fact. As described above, at a minimum the requested relief is waived due to the passage of time. But even if the Court were willing to overlook the prior two years of litigation, Peter Beasley's true complaint is that he dislikes litigating with current defense counsel and would simply prefer to have SIM-DFW capitulate to his demands. There is no conflict of interest, there is no basis for Peter Beasley's "tortuous" interference claims, and there is no basis for arguing that SIM-DFW or Defendants O'Bryan and Burns owe Peter Beasley any attorneys' fees.

Plaintiff's Motion is the epitome of sanctionable conduct. Defendants' respectfully request that this Court order Peter Beasley to pay SIM-DFW the reasonable and necessary attorneys' fees incurred in the defense of his groundless Motion. Defendants will present evidence showing the amount of its expenses to the extent awarded and requested by the Court.

V. CONCLUSION & PRAYER

Peter Beasley has abused the judicial process by re-filing his claims in Collin County and relying on clearly false facts to support his venue choice, waiting almost two years to seek the disqualification of defense counsel, and forcing this issue to a hearing. Defendants have duly authorized and retained Peter Vogel of Gardere Wynne Sewell LLP to represent them in this lawsuit. Additionally, Gordon & Rees is assigned defense counsel under the terms of SIM-DFW's Director's and Officer's Liability Policy. Likewise, Peter Beasley's alleged grounds for disqualification are unsupportable. Accordingly, Defendants' respectfully request that this Court:

- (1) Deny all of Peter Beasley's requested relief;

(2) Order Peter Beasley to pay SIM-DFW monetary sanctions sufficient to cover the costs of preparing this pleading and attending and hearing and sufficient to deter pleadings abuse; and for,

(3) All other relief to which Movant may be entitled.

Respectfully submitted,

GORDON REES SCULLY MANSUKHANI

/s/ Soña J. Garcia

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214-999-4667 (Facsimile)

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing document was served pursuant to TEXAS RULES OF CIVIL PROCEDURE 21 and 21a on February 27, 2018.

/s/ Soña J. Garcia _____
Soña J. Garcia

EXHIBIT A**MOTIONS AND PETITIONS FILED SINCE NOVEMBER 3, 2018**
ATTORNEYS FEES AWARD

<u>DATE</u>	<u>DOCUMENT</u>	<u>STATUS</u>	<u>JUDGE</u>
11/07/2017	First Notice of Appeal.	Dismissed on 12/13/17	Maricela Moore - 162 nd District Court of Dallas County
11/08/2017	Verified Motion to Disqualify and Recuse the Honorable Judge Maricela Moore.	Denied by Administrative Judge Mary Murphy on 11/22/17	Maricela Moore - 162 nd District Court of Dallas County
11/16/2017	Motion to Modify Final Judgment and for Sanctions against Defendants and Their Counsel.	Rejected for failure to pay filing fee	Maricela Moore - 162 nd District Court of Dallas County
11/20/2017	First Amended Motion to Disqualify and Recuse Judge, Verified Rule 12 Motion to Show Authority and Motion to Disqualify Attorney Peter Vogel.	Denied by Administrative Judge Mary Murphy 11/22/17.	Maricela Moore - 162 nd District Court of Dallas County
11/27/2017	First Amended Verified Rule 12 Motion to Show Authority and Motion to Disqualify Attorney Peter Vogel	Withdrawn.	Maricela Moore - 162 nd District Court of Dallas County
11/29/2017	Petition for Writ of Mandamus	Denied 12/11/17	Fifth Court of Appeal - NO. 05-17-01365-CV
11/30/2017	Original Petition Filed.		Hon. Cynthia Wheless - 417 th District Court of Collin County
11/30/2017	Motion to Modify Judgment and Vacate Award of Attorneys Fees	Denied 12/20/17	Maricela Moore - 162 nd District Court of Dallas County
12/04/2017	Appellant's Voluntary Dismissal Without Prejudice, dismissing First Appeal.	Accepted and dismissed by COA on 12/13/17	5 th COA - NO. 05-17-01286-CV

EXHIBIT A

<u>DATE</u>	<u>DOCUMENT</u>	<u>STATUS</u>	<u>JUDGE</u>
12/08/2017	First Amended Motion to Modify Judgment and to Vacate Award of Attorneys fees.	Denied on 12/20/17	Maricela Moore - 162 nd District Court of Dallas County
12/11/2017	Surreponse and Supplemental Motion to Modify Judgment and to Vacate Award of Attorneys fees.	Denied on 12/20/17	Maricela Moore - 162 nd District Court of Dallas County
12/13/2017	First Amended Motion to Modify Judgment and for Sanctions against Defendants and Their Counsel.	Denied on 12/19/17	Maricela Moore - 162 nd District Court of Dallas County
12/18/2017	Second Notice of Appeal.	<i>Pending</i>	Maricela Moore - 162 nd District Court of Dallas County; 5 th COA - NO. 05-17-01467
12/18/2017	Petition for Writ of Mandamus with the Texas Supreme Court	Denied on 01/26/18	Supreme Court of Texas No. 17-1032
12/27/2017	First Amended Petition Filed		Hon. Cynthia Wheless - 417 th District Court of Collin County
12/27/2017	Formal Bill of Exceptions	Denied on 01/18/18	Maricela Moore - 162 nd District Court of Dallas County
12/29/2017	Second Notice of Appeal is filed again.	<i>Pending</i>	Maricela Moore - 162 nd District Court of Dallas County 5 th COA - NO. 05-17-01492
01/04/2018	Appellant's Motion to Consolidate Duplicate Appeals	<i>Pending</i>	5 th COA - NOs. 05-17-01286-CV, 05-17-01467-CV, and 05-17-01492-

EXHIBIT A

<u>DATE</u>	<u>DOCUMENT</u>	<u>STATUS</u>	<u>JUDGE</u>
			CV
01/07/2018	Motion to Enter Bill of Exceptions.	Denied on 01/18/18	Maricela Moore - 162 nd District Court of Dallas County
01/30/2018	Rule 12 Motion to Show Authority; Motion to Disqualify Law Firm Gordon Rees as to Janis O'Bryan, Nellson Burns; and Motion for Attorney Fees	<i>Pending</i>	Hon. Cynthia Wheless - 417 th District Court of Collin County
02/01/2018	Motion to Disqualify Law Firm Gordon Rees as to Individual SIM Members' and Motion for Attorney Fees	<i>Pending</i>	Hon. Cynthia Wheless - 417 th District Court of Collin County
02/01/2018	Motion to Disqualify Law Firm Gordon Rees; Motion for Attorney Fees and Request for Mediation	<i>Pending</i>	Hon. Cynthia Wheless - 417 th District Court of Collin County
02/05/2018	Verified Rule 12 Motion to Show Authority and Motion to Disqualify Attorney Peter Vogel	<i>Pending</i>	Hon. Cynthia Wheless - 417 th District Court of Collin County
02/09/2018	Appellant's Supplemental Motion to Consolidate Appeals	<i>Pending</i>	5 th COA - NOs. 05-17-01286- CV, 05-17- 01467-CV, and 05-17-01492- CV
02/12/2018	Motion for Continuance of Hearing on Motion to Transfer Venue	Mooted	Hon. Cynthia Wheless - 417 th District Court of Collin County
02/12/2018	Plaintiff's Verified Motion to Disqualify and Recuse Judge	Case transferred to Hon. Judge John Roach.	Hon. Cynthia Wheless - 417 th District Court of Collin County
02/23/2018	Plaintiff's First Amended Motions to	<i>Pending</i>	Hon. John

EXHIBIT A

<u>DATE</u>	<u>DOCUMENT</u>	<u>STATUS</u>	<u>JUDGE</u>
	Show Authority, Disqualify Attorneys; Request for Attorney Fees and for Mediation		Roach, Jr. - 296 th District Court of Collin County
02/23/2018	Plaintiff's First Motion to Compel Discovery; Motion for Rule 215 Sanctions' and Motion to Enlarge Discovery	<i>Pending</i>	Hon. John Roach, Jr. - 296 th District Court of Collin County
02/23/2018	Objections and Response to Defendant's Motion to Shorten Period to Hear Defendant's Motion to Transfer Venue	<i>Pending</i>	Hon. John Roach, Jr. - 296 th District Court of Collin County

EXHIBIT B**CAUSE NO. 296-05741-2017**

PETER BEASLEY,	§	IN THE DISTRICT COURT
	§	
Plaintiff,	§	
	§	
v.	§	
	§	COLLIN COUNTY, TEXAS
SOCIETY FOR INFORMATION	§	
MANAGEMENT, DALLAS AREA	§	
CHAPTER, JANIS O'BRYAN AND	§	
NELLSON BURNS	§	
	§	296th JUDICIAL DISTRICT
Defendant	§	

DECLARATION OF JANIS O'BRYAN

My name is Janis O'Bryan, my date of birth is September 15, 1956 and my address is 2677 Waterford Way, Carrollton, TX 75006. I declare the following statements to be true and correct under the penalty of perjury.

1. "My name is Janis O'Bryan. I am over eighteen (18) years of age, have never been convicted of a crime involving moral turpitude, and am fully competent in all respects to make this Declaration. The facts stated in this Declaration are within my personal knowledge, true, and correct.

2. I have been a member of SIM-DFW for 10 years. Currently, I serve on the SIM-DFW Board of Directors as past-Chair of the SIM-DFW Chapter. My two year term began on January 1, 2017 and will end on December 31, 2018. Prior to serving as the past-Chair, I was Chair of the SIM-DFW Chapter from January 1, 2015 to December 31, 2016.

3. Peter Beasley sued SIM-DFW on March 17, 2016. I was notified that Peter Beasley had filed suit against SIM-DFW after he informally served his lawsuit by email on Larry Freed and Nellson Burns.

EXHIBIT B

4. SIM-DFW did not want to be involved in litigation with a Board member and initially we sought to informally negotiate a resolution to the dispute with the help of SIM-DFW's long-time counsel, Peter Vogel, who is a partner at Gardere Wynne Sewell LLP. Mr. Vogel has long acted as SIM-DFW's counsel when issues arise that requires legal advice.

5. In addition to pursuing an informal resolution of the lawsuit and Peter Beasley's grievances against the SIM-DFW Chapter, I notified Steve Hufford that SIM-DFW had been sued. Steve Hufford is the Chief Executive for SIM International. As required by the Society for Information Management's Directors' and Officers' Liability Insurance policy ("D&O Policy"), I also notified The Hartford Financial Services Group, Inc. ("The Hartford") of Peter Beasley's lawsuit. The Hartford assigned Gordon Rees Scully Mansukhani, LLP as defense counsel. On April 1, 2016, I was introduced to Bob Bragalone and Soña Garcia at Gordon & Rees who are defending the Chapter, and any Board Members named as individual defendants, pursuant to the terms of The Hartford D&O Policy. At the time that Bob Bragalone and Soña Garcia were assigned the defense of the lawsuit, Peter Beasley had already amended his lawsuit to name me as a defendant in my individual capacity as the then-President of SIM-DFW and secured an improper *ex parte* TRO without notice to me or to our lawyer, Peter Vogel.

6. On April 4, 2016, we invited Bob Bragalone and Soña Garcia to attend a meeting with the SIM-DFW Executive Committee to introduce themselves and discuss our response to Peter Beasley's lawsuit. The April 4, 2016 Attorney-Client Privileged meeting was hosted by Peter Vogel at Gardere Wynne Sewell LLP's offices, and was limited to the SIM-DFW Executive Committee members and our counsel, Peter Vogel and Dwight Francis, of Gardere Wynne Sewell LLP, and Soña Garcia from Gordon & Rees. This meeting was intended to be, and was in fact, a meeting to discuss the Chapter's response to Peter Beasley's lawsuit and for

EXHIBIT B

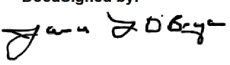
our Executive Committee to provide information to our outside counsel to aid in the defense of Peter Beasley's claims.

7. Without revealing the content of the Attorney-Client Privileged discussion at the April 4, 2016 meeting, the SIM-DFW Executive Committee agreed that Gardere Wynne Sewell LLP and Gordon & Rees would represent the SIM-DFW Chapter, me in my individual capacity as a member of the Board of Directors, and any other Board Member sued by Peter Beasley in their individual capacity..

8. On April 5, 2016 I signed an Engagement Letter with Gardere Wynne Sewell LLP to represent the Chapter regarding the Peter Beasley litigation. Because Gordon & Rees was assigned to defend the lawsuit filed by Peter Beasley by The Hartford, SIM-DFW does not have an engagement agreement directly with Gordon & Rees.

9. Both Gardere Wynne Sewell LLP and Gordon & Rees continue to be authorized to defend Peter Beasley's lawsuit against SIM-DFW and any and all SIM-DFW Board Members named in their individual capacity.

Dated February 27, 2018

DocuSigned by:

95E34BD88638413...
Janis O'Bryan

CAUSE NO. 296-05741-2017

PETER BEASLEY,	§	IN THE DISTRICT COURT
	§	
Plaintiff,	§	
	§	
v.	§	
	§	COLLIN COUNTY, TEXAS
SOCIETY FOR INFORMATION	§	
MANAGEMENT, DALLAS AREA	§	
CHAPTER, JANIS O'BRYAN AND	§	
NELLSON BURNS	§	
	§	296th JUDICIAL DISTRICT
Defendant	§	

DECLARATION OF PETER S. VOGEL

My name is Peter S. Vogel, and office address is 2021 McKinney Ave., Suite 1600, Dallas, Texas 75201. I declare the following statements to be true and correct under the penalty of perjury.

1. "My name is Peter S. Vogel. I am over eighteen (18) years of age, have never been convicted of a crime involving moral turpitude, and am fully competent in all respects to make this Affidavit. The facts stated in this Declaration are within my personal knowledge, true, and correct.

2. I graduated from St. Mary's University School of Law in May, 1976, passed the Texas Bar Examination in October 1976, and was admitted to practice law on November 1, 1976. On July 1, 1978 I began practicing law as a sole practitioner, and on February 6, 1992 I became a partner at Gardere & Wynne LLP which later became Gardere Wynne Sewell LLP.

3. I have been a member of SIM-DFW for 16 years, and have drafted and negotiated agreements on behalf of SIM-DFW and given legal advice to the Board of Directors and Committee Chairs.

EXHIBIT C

4. Peter Beasley sued SIM-DFW on March 17, 2016. On March 20, 2016 I was notified that Peter Beasley had filed suit against SIM-DFW in the 162nd District Court, Dallas County, Texas, Cause No. DC-16-03141, after he informally served his lawsuit by email on Larry Freed and Nellson Burns on March 19, 2016.

5. On March 21, 2016 I sent an email to Peter Beasley stating that I represented SIM-DFW, and since that date on behalf of the Defendants I have attended virtually every deposition and hearing in the case in the 162nd District Court.

6. On April 4, 2016 Gardere Wynne Sewell LLP hosted a meeting of the SIM-DFW Executive Committee members and attorneys Soña Garcia, Dwight Francis, and me, and without revealing any Attorney-Client Privilege, the SIM-DFW Executive agreed that Gardere Wynne Sewell LLP would represent SIM-DFW in the Peter Beasley litigation.

7. Thereafter on April 5, 2016 on behalf of SIM-DFW Janis O'Bryan signed an Engagement Letter with Gardere Wynne Sewell LLP SIM-DFW regarding Peter Beasley's litigation, and Gardere Wynne Sewell LLP has represented SIM-DFW in Peter litigation since that date, a copy is attached to this Declaration as Exhibit 1.

8. I do not believe there is any conflict of interest in my representation of SIM-DFW.

9. In my 40 years of law practice I have never misrepresented any facts or law in any pleading or in Court, nor violated any of the Texas Disciplinary Rules of Professional Conduct, nor have I ever been sanctioned by any Court, nor have I ever been ordered to as disqualified from representing a client.

Dated: February 27, 2018

DocuSigned by:
Peter Vogel
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Peter S. Vogel

EXHIBIT 1



April 5, 2016

Ms. Janis O'Bryan
Chapter President
Society for Information Management
Dallas Area Chapter
2677 Waterford Way
Carrollton, TX 75006

Re: Peter Beasley v. Society for Information Management, Dallas Area Chapter

Dear Ms. O'Bryan:

We appreciate the opportunity to represent Society for Information Management, Dallas Chapter (hereinafter referred to as the "Company" or "you") in connection with the above-referenced matter. If at any time you have any questions or concerns, please contact us promptly. We want you to be fully satisfied with the legal services provided by us. This letter outlines the basic scope of our engagement, our fee arrangement, and other matters in accordance with the Texas Disciplinary Rules of Professional Conduct.

Scope of Engagement

You have engaged us to help defend in the lawsuit named above, and provide legal counsel regarding remedies. The Company will be our only client in this matter. We do not represent the individual interests of any person or entity affiliated with the Company in connection with the affairs of the Company. Our representation of the Company does not give rise to an attorney-client relationship with any parent, subsidiary or affiliate of the Company.

We are not your general counsel; our representation of you is limited to the matter described in this letter. The scope of our representation of you may be limited at your written request from time to time. If we jointly agree in writing to expand the scope of our representation, or if you engage us in writing on another matter, the provisions of this engagement letter shall apply to the new expanded scope or the new matter unless specifically agreed otherwise in writing.

EXHIBIT 1

Ms. Janis O'Bryan
Society for Information Management
April 5, 2016
Page 2

Cooperation and Communications

We will rely upon the information you and your agents give us and will assume that you will disclose fully and accurately all facts and keep us informed of all developments relating to this matter.

Please be careful to maintain confidentiality in all communications with us. If you use a means of electronic communication provided by another party (such as email provided by an employer or another entity or person), you may risk waiver of the attorney-client privilege.

Insurance

If this engagement is for the defense of litigation, you should determine whether you are insured against this potential liability. If you expect us to assist you in making that determination, please provide us with copies of your applicable liability insurance policies so that we can advise you as to whether you have insurance coverage.

If you have insurance and your insurer does not pay our invoices in a timely manner, you agree that you will pay same on demand.

Payment of Fees and Expenses

You will pay for our services, expense disbursements and other charges in accordance with the terms set forth in the attached memorandum entitled "Payment for Legal Services." No retainer will be required, but you do not pay invoices timely we may request a retainer at a later time, which will be subject to the terms set forth in such memorandum.

We are not undertaking this matter on a contingency basis. Continued work by us on this matter is conditioned upon current payment of our invoices in accordance with the terms of the attached memorandum. Should you for any reason be unable to comply with those terms, you hereby consent to our withdrawal from the representation.

If a settlement is reached or an award granted at a time when this firm is owed any monies by you or you are indebted to third-party vendors in connection with this matter, such charges shall be deducted from any monies that you are entitled to receive pursuant to the settlement or award.

Ms. Janis O'Bryan
Society for Information Management
April 5, 2016
Page 3

Conflicts of Interest

Please complete the enclosed Client Conflict Questionnaire Form and return it to us with this letter counter-signed by you. This information will allow us to confirm, both for our benefit and yours, any potential conflicts that we may have and will also provide us with a database for investigating possible future conflicts. Our representation of you is governed by the Texas Disciplinary Rules of Professional Conduct, including the rules dealing with conflicts of interest.

While we are representing you, some of our other present or future clients may have disputes or transactions with you. You agree that this Firm may continue to represent or may undertake in the future to represent such clients, or any other present or future clients, in any matter that is not substantially related to our work for you, even if the interests of such clients in those other matters are directly adverse to you and even if such representations would be simultaneous. We will not accept representations where, as a result of our representation of you, we have obtained sensitive, proprietary or other confidential or non-public information that, if known to such other client of ours, could be used in such other matter by such other client to your material disadvantage.

The Company acknowledges and agrees that it is a separate entity from its parent, subsidiaries and affiliates for conflicts of interest purposes.

Our lawyers may have substantial investments in public and private entities that have an interest in this dispute. We also may represent other lawyers in various matters, including your opponent's attorneys. If you would like for us to make special inquiry, please make a written request for us to do so.

Termination of Engagement

Each of us may terminate our relationship at any time, subject to reasonable notice. If we withdraw, we will comply with all ethical requirements and you will pay for all of our services rendered and all of our expense disbursements and other charges, pursuant to the attachment hereto, through the time we withdraw.

Our attorney-client relationship will be considered terminated upon our completion of the specific services for which you have retained us. If you later retain us to perform further or additional services, our attorney-client relationship will be revived, subject to these and any supplemental terms. If we inform you from time to time of developments in the law which may be of interest to you, by newsletter or otherwise, it does not constitute a revival of an attorney-client relationship.

EXHIBIT 1

Ms. Janis O'Bryan
Society for Information Management
April 5, 2016
Page 4

Moreover, we have no obligation to inform you of developments in the law unless we are specifically engaged in writing to do so.

Our Files

All of our "work product" accumulated while representing you will be owned by us. "Work product" includes our handwritten notes, internal memos, firm administrative records such as client screening documents and time records, and legal research.

Once our engagement in each matter ends, you may ask that the matter file be returned to you. Files remaining in our possession will be subject to a retention period. Before proceeding with disposition of files, we will notify you at your last known address on file, at which time you may ask that the file be returned to you or you may give approval for destruction. If you do not respond to the notice within 60 days of receipt, you agree and understand that any materials remaining with us after each engagement ends may be retained or destroyed per our policy. "Materials" include paper files as well as information in other media formats, such as electronic documents, voicemail, email, fax, recordings, and video files.

Opinions

We may express opinions concerning the outcome of your legal matters, but the outcome of transactions and lawsuits are subject to uncertainties and risks, and we make no provisions or guarantees to you about the outcome of any such matters.

Renewal Notices of Security Interests and Liens

Public filings of security interests or liens must be renewed prior to expiration of a prescribed period of time (e.g. five years in the case of renewal notices of security interests granted under the Texas Uniform Commercial Code). Failure to make timely renewal filings could result in the loss of the security interest or lien. We do not undertake to calendar or make any renewal filings on your behalf.

Governing Law

Our engagement will be governed by Texas law.

Ms. Janis O'Bryan
Society for Information Management
April 5, 2016
Page 5

Texas Lawyers Creed

The Supreme Court of Texas has adopted the attached "Texas Lawyers Creed." We are required to advise you of its contents at the time of undertaking representation.

Mediation/Arbitration

Any dispute or controversy regarding or arising out of our representation of you shall be subject to mediation before a mutually-agreeable mediator. If the mediation is unsuccessful, or if we are unable to agree upon a mediator within thirty days after the dispute arises, then the dispute shall be subject to binding arbitration in Dallas, Texas. The arbitration shall be administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.

The arbitration process is normally speedier, less expensive, and more private than court litigation. In addition, arbitrators typically are more highly-educated and experienced than are jurors concerning business matters. On the other hand, arbitration involves waiver of the right to a jury trial, possible waiver of broad discovery, loss of the right to challenge the final arbitration award in court, except in very limited circumstances, and the possible payment of the fees and costs of arbitration.

Please confirm your acceptance of the terms and conditions set forth in this agreement above by returning an executed copy in the enclosed envelope.

GARDERE WYNNE SEWELL LLP

By: _____

Peter Vogel

Partner

t: 214.999.4422

f: 214.999.3422

pvogel@gardere.com

PV:jk

EXHIBIT 1

Ms. Janis O'Bryan
Society for Information Management
April 5, 2016
Page 6

THIS LETTER CONTAINS AN AGREEMENT TO RESOLVE DISPUTES BY ARBITRATION

The undersigned agrees to all terms stated above.

Society for Information Management, Dallas Area Chapter

By: Janis L O'Bryan
Janis O'Bryan
Its: Chapter President

PAYMENT FOR LEGAL SERVICES

Unless modified in writing by mutual agreement, the terms below will be an integral part of our agreement with you.

How Fees Are Set

Our charges for legal services will be calculated on an hourly basis at our hourly rates. These hourly rates presently vary from \$215.00 to \$950.00, depending on the attorney or paralegal who is providing the services. Rates are adjusted each April 1 at the beginning of our fiscal year, and sometimes at other points during the year. We expect that Peter Vogel and Dwight Francis will be the persons primarily working on your matter. Their current hourly rates are \$800 and \$645, respectively. However Peter Vogel will charge \$600 per hour and Dwight Francis \$550 per hour in the engagement. In the event it becomes necessary or advisable for others to work on this matter, their hourly rates may be higher or lower. We may agree in writing to alternative fee arrangements, subject to the applicable rules governing our professional conduct.

We are often requested to estimate the amount of fees and costs likely to be incurred in connection with a particular matter. Whenever possible we will furnish such an estimate based upon our professional judgment, but always with a clear understanding that it is not a maximum or fixed fee quotation.

We do not accept representation on a fixed-fee basis except in limited situations. In all such situations, the fixed-fee arrangement will be expressed in a letter setting forth both the amount of the fee and the scope of the services to be provided.

Expense Disbursements and Other Charges

Third-party charges incurred on your behalf in significant amounts will be sent to you for payment directly to the vendor. We will bill you monthly for our other expense disbursements incurred on your behalf (filing fees, travel expenses, delivery costs, copying, etc.). A complete explanation of the basis of such charges will be provided to you upon request.

Gardere's Litigation Support services staff assists the attorneys in litigation matters. Certain litigation support projects may be provided on a flat fee basis, but typically fees will be charged on an hourly basis at staff's billing rates ranging from \$190.00 to \$255.00 per hour. We may adjust our rates periodically in the normal course of business. The litigation support staff's responsibilities include, among others, reviewing, organizing, indexing, imaging, and maintaining all documents; assisting with document production; creating privilege logs; conducting research; assisting in preparation for depositions, hearings, and trial; summarizing depositions; cite checking legal briefs; and providing technical support.

Retainer and Trust Deposits

Most clients are asked to deposit a retainer to be held in our trust account to secure payment of amounts due us. If we conclude that the retainer deposit is insufficient, we may require that it be increased. Payment of each invoice is due as submitted, without regard to the retainer deposit. At the conclusion of our legal representation, or earlier at our discretion, the retainer deposit will be returned to you or applied to our invoices. If any balance of the retainer deposit remains, and if you have engaged us to represent you in other matters, any remaining balance of the retainer deposit may be applied to amounts due us in connection with such other matters.

Billing Arrangements and Terms of Payment

We will bill you on a regular basis, normally monthly, for fees, expense disbursements and other charges. Payment is due within 30 days of the invoice date. If you dispute any portion of our invoice, you must notify us in writing as to the basis for the dispute and pay the undisputed balance within such 30-day period. Failure to notify us in writing within the 30-day period of any disputed item shall constitute your agreement to the validity of your obligation to pay the invoice as presented.

We are not undertaking this matter on a contingency basis. Continued work by us is conditioned upon current payment of our invoices in accordance with the terms set forth above. If you fail to comply with those terms, you hereby consent to our withdrawal from the representation.

Client Conflict Questionnaire

1. Name of Company: Society for Information Management
2. Street Address: _____
3. Mailing Address: PO Box 208, Frisco, TX 75034
4. Nature of Business: Non Profit
5. List Related Companies, Address, and Nature of Business.

Related Company	Address	Nature of Business
N/A		

6. Principal Officers of Company and Each Related Company, together with the Address of Each Officer:

Officer	Company	Address of Officer
Janis O'Bryan		
Nellson Burns		
Larry Freed		

7. Board of Directors of Company and Each Related Company, together with the Address of Each Director:

Director Additional Officers	Company	Address of Director
Mike Brown		
Tresia Eaves		

[Add additional pages if necessary.]

EXHIBIT 1
THE TEXAS LAWYER'S CREED —
A MANDATE FOR PROFESSIONALISM

**BY ORDER OF THE SUPREME COURT AND
THE COURT OF CRIMINAL APPEALS.**

I am a lawyer. I am entrusted by the People of Texas to preserve and improve our legal system. I am licensed by the Supreme Court of Texas. I must therefore abide by the Texas Disciplinary Rules of Professional Conduct, but I know that professionalism requires more than merely avoiding the violation of laws and rules. I am committed to this Creed for no other reason than it is right.

I. OUR LEGAL SYSTEM

A lawyer owes to the administration of justice personal dignity, integrity, and independence. A lawyer should always adhere to the highest principles of professionalism.

- 1 I am passionately proud of my profession. There, "My word is my bond."
- 2 I am responsible to assure that all persons have access to competent representation regardless of wealth or position in life.
- 3 I commit myself to an adequate and effective pro bono program.
- 4 I am obligated to educate my clients, the public, and other lawyers regarding the spirit and letter of this Creed.
- 5 I will always be conscious of my duty to the judicial system.

II. LAWYER TO CLIENT

A lawyer owes to a client allegiance, learning, skill, and industry. A lawyer shall employ all appropriate means to protect and advance the client's legitimate rights, claims, and objectives. A lawyer shall not be deterred by any real or imagined fear of judicial disfavor or public unpopularity, nor be influenced by mere self-interest.

- 1 I will advise my client of the content of this Creed when undertaking representation.
- 2 I will endeavor to achieve my client's lawful objectives in legal transactions and in litigation as quickly and economically as possible.
- 3 I will be loyal and committed to my client's lawful objectives, but I will not permit that loyalty and commitment to interfere with my duty to provide objective and independent advice.
- 4 I will advise my client that civility and courtesy are expected and are not a sign of weakness.
- 5 I will advise my client of proper and expected behavior.
- 6 I will treat adverse parties and witnesses with fairness and due consideration. A client has no right to demand that I abuse anyone or indulge in any offensive conduct.
- 7 I will advise my client that we will not pursue conduct which is intended primarily to harass or drain the financial resources of the opposing party.
- 8 I will advise my client that we will not pursue tactics which are intended primarily for delay.
- 9 I will advise my client that we will not pursue any course of action which is without merit.

10 I will advise my client that I reserve the right to determine whether to grant accommodations to opposing counsel in all matters that do not adversely affect my client's lawful objectives. A client has no right to instruct me to refuse reasonable requests made by other counsel.

11 I will advise my client regarding the availability of mediation, arbitration, and other alternative methods of resolving and settling disputes.

III. LAWYER TO LAWYER

A lawyer owes to opposing counsel, in the conduct of legal transactions and the pursuit of litigation, courtesy, candor, cooperation, and scrupulous observance of all agreements and mutual understandings. Ill feelings between clients shall not influence a lawyer's conduct, attitude, or demeanor toward opposing counsel. A lawyer shall not engage in unprofessional conduct in retaliation against other unprofessional conduct.

- 1 I will be courteous, civil, and prompt in oral and written communications.
- 2 I will not quarrel over matters of form or style, but I will concentrate on matters of substance.
- 3 I will identify for other counsel or parties all changes I have made in documents submitted for review.
- 4 I will attempt to prepare documents which correctly reflect the agreement of the parties. I will not include provisions which have not been agreed upon or omit provisions which are necessary to reflect the agreement of the parties.
- 5 I will notify opposing counsel, and, if appropriate, the Court or other persons, as soon as practicable, when hearings, depositions, meetings, conferences or closings are cancelled.
- 6 I will agree to reasonable requests for extensions of time and for waiver of procedural formalities, provided legitimate objectives of my client will not be adversely affected.
- 7 I will not serve motions or pleadings in any manner that unfairly limits another party's opportunity to respond.
- 8 I will attempt to resolve by agreement my objections to matters contained in pleadings and discovery requests and responses.
- 9 I can disagree without being disagreeable. I recognize that effective representation does not require antagonistic or obnoxious behavior. I will neither encourage nor knowingly permit my client or anyone under my control to do anything which would be unethical or improper if done by me.
- 10 I will not, without good cause, attribute bad motives or unethical conduct to opposing counsel nor bring the profession into disrepute by unfounded accusations of impropriety. I will avoid disparaging personal remarks or acrimony towards opposing counsel, parties and witnesses. I will not be influenced by any ill feeling between clients. I will abstain from any allusion to personal peculiarities or idiosyncrasies of opposing counsel.

- 11 I will not take advantage, by causing any default or dismissal to be rendered, when I know the identity of an opposing counsel, without first inquiring about that counsel's intention to proceed.
- 12 I will promptly submit orders to the Court. I will deliver copies to opposing counsel before or contemporaneously with submission to the court. I will promptly approve the form of orders which accurately reflect the substance of the rulings of the Court.
- 13 I will not attempt to gain an unfair advantage by sending the Court or its staff correspondence or copies of correspondence.
- 14 I will not arbitrarily schedule a deposition, Court appearance, or hearing until a good faith effort has been made to schedule it by agreement.
- 15 I will readily stipulate to undisputed facts in order to avoid needless costs or inconvenience for any party.
- 16 I will refrain from excessive and abusive discovery.
- 17 I will comply with all reasonable discovery requests. I will not resist discovery requests which are not objectionable. I will not make objections nor give instructions to a witness for the purpose of delaying or obstructing the discovery process. I will encourage witnesses to respond to all deposition questions which are reasonably understandable. I will neither encourage nor permit my witness to quibble about words where their meaning is reasonably clear.

IV. LAWYER AND JUDGE

Lawyers and judges owe each other respect, diligence, candor, punctuality, and protection against the unjust and improper criticism and attack. Lawyers and judges are equally responsible to protect the dignity and independence of the Court and the profession.

- 1 I will always recognize that the position of judge is the symbol of both the judicial system and administration of justice. I will refrain from conduct that degrades this symbol.
- 2 I will conduct myself in Court in a professional manner and demonstrate my respect for the Court and the law.
- 3 I will treat counsel, opposing parties, the Court, and members of the Court staff with courtesy and civility.
- 4 I will be punctual.
- 5 I will not engage in any conduct which offends the dignity and decorum of proceedings.
- 6 I will not knowingly misrepresent, mischaracterize, misquote or miscite facts or authorities to gain an advantage.
- 7 I will respect the rulings of the Court.
- 8 I will give the issues in controversy deliberate, impartial and studied analysis and consideration.
- 9 I will be considerate of the time constraints and pressures imposed upon the Court, Court staff and counsel in efforts to administer justice and resolve disputes.

EXHIBIT D

From: Peter Beasley <pbeasley@netwatchsolutions.com>
Sent: Friday, December 30, 2016 1:32 PM
To: Soña Garcia
Cc: Daniel Jones
Subject: RE: Deposition dates - witness statements

Follow Up Flag: Follow up
Flag Status: Completed

Ms. Garcia, You in no way represent me and I do not accept your “legal advice”. In fact, I recall there being prohibitions from opposing attorneys giving legal advice to pro se litigants. That is your ethical obligation to follow, but what can I say It’s Rule 4.03. Dealing With Unrepresented Person. You are not a disinterested advisor to me.

Still, if there are things of a legal nature which you want to tell me, feel free to. I know you don’t represent my interests. In fact, you are violently opposed to my interests. If there are truthful things that you want to suggest about the rules or the law that can help us both, feel free to let me know.

But regardless of what you say, I’m fairly certain there are differences between required conduct between licensed attorneys and non-attorneys. So even your first statement is not true.

Also, I do not recognize you to represent the rank and file SIM member. I don’t believe you are telling the truth. In fact, I don’t see how you could force a member to appear for a deposition or answer any discovery requests. But your threats are duly noted. I view your threat to impede me from finding witnesses as another prohibited action under the Texas rules of the bar. But I’m not a lawyer.

So, I’ll proceed in beginning to contact members, many of them my friends, to further support my claims. I’d thus far refrained from stirring many of these matters up with the members. I had the belief your client would have operated with reason and prudence, and this whole affair might have been over before it started. But, your threat though is duly noted.

Your other threats to me and my lawyers are noted too. As you requested, Mr. Jones gave me the letter you sent him.

As for members of the board, I see your point. So, please also make board members Kevin Dunn and Randy Neal available for deposition. I’ll send you a notice – since this is what you prefer.

You can take my deposition whenever you’d like – as long as we jointly agree on deposition dates. My request to take O’Bryan’s deposition has been made months ago, and was noticed first.

For the weeks that you mentioned, Jan. 16, 19, 20, 23, 26 and 27 are good for us to take the depositions: O’Bryan, Beasley, Christ, Dunn, Neal.

Peter

From: Soña Garcia [mailto:sjgarcia@gordonrees.com]
Sent: Friday, December 30, 2016 11:33 AM
To: 'pbeasley@netwatchsolutions.com'
Subject: RE: Deposition dates - witness statements

Mr. Beasley,

EXHIBIT D

You are required as a pro se litigant to follow the same rules of conduct that an attorney would. It is prohibited for you to attempt to contact or communicate about the subject of this lawsuit with any person, or organization, you know to be represented. You have sued SIM-DFW, you are well aware it is represented, and therefore you cannot speak to any SIM members about this lawsuit without either my approval, which I do not give, or through discovery, which you have not requested. Any attempt to contact any SIM member regarding this lawsuit will result in an immediate motion for sanctions against you.

With regard to the remaining depositions, I have some availability the week of the 16th and the 23rd – let me know what date you would prefer for your deposition and then we can discuss dates for Ms. O'Bryan and Mr. Christ. From a practical standpoint we need to schedule the remaining depositions in order to agree on a reasonable discovery end date. I will respond to your email regarding your attempted meet and confer separately.

SOÑA J. GARCIA | Senior Counsel

GORDON & REES

SCULLY MANSUKHANI

2100 Ross Avenue, Suite 2800

Dallas, TX 75201

P: 214-231-4660 | F: 214-461-4053

sjgarcia@gordonrees.com

vCard

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Illinois • Maryland • Massachusetts • Missouri • Nevada • New Jersey • New York
North Carolina • Ohio • Oregon • Pennsylvania • South Carolina • South Dakota
Texas • Virginia • Washington • Washington, D.C. • West Virginia

www.gordonrees.com

 Please consider the environment before printing this email.

From: Peter Beasley [<mailto:pbeasley@netwatchsolutions.com>]

Sent: Friday, December 30, 2016 10:10 AM

To: Soña Garcia

Subject: Deposition dates - witness statements

Ms. Garcia, I understand you today realize that I am representing myself again.

What dates are you making O'Bryan and Kevin Christ available for deposition?

Also, I need to obtain some witness statements from several of the general SIM members. I'm simply letting you know.

I understand you want to take my deposition too. I'm OK with using your office for all of the remaining depositions.

Peter Beasley, CTO

Netwatch Solutions, Inc.

www.netwatchsolutions.com

214-446-8486 ext. 105 (o)

972-365-1170 (c)

Motion to Compel and Motion for Continuance
February 13, 2017

REPORTER'S RECORD

VOLUME 1 OF 1 VOLUMES

TRIAL COURT CAUSE NO. 16-03141-I

PETER BEASLEY) IN THE DISTRICT COURT
vs.) DALLAS COUNTY, TEXAS
SOCIETY OF INFORMATION)
MANAGEMENT, DALLAS AREA)
CHAPTER) 162ND JUDICIAL DISTRICT

MOTION TO COMPEL AND MOTION FOR CONTINUANCE

On the 13th day of February, 2017, the following proceedings came on to be held in the above-titled and numbered cause before the Honorable Maricela Moore, Judge Presiding, held in Dallas, Dallas County, Texas.

Proceedings reported by computerized stenotype machine.

Motion to Compel and Motion for Continuance
February 13, 2017

APPEARANCES

Peter Beasley
P.O. Box 831359
Richardson, Texas 75083
Telephone: 972-365-1170
Pro Se

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SBOT NO. 24045917
GORDON & REES LLP
2100 Ross Avenue, Suite 2800
Dallas, Texas 75201
Telephone: 214-231-4660
Attorney for Defendants SIM-DFW, Burns and O'Bryan

Peter S. Vogel
SBOT NO. 20601500
GARDERE WYNNE SEWELL, LLP
2021 McKinney Ave, Suite 1600
Dallas, Texas 75201
Telephone: 214-999-4422
Attorney for Society for Information Management
Dallas Area Chapter

James E. Davis
SBOT NO. 05504200
ATTORNEY AT LAW
2500 Dallas Parkway, Suite 600
Plano, Texas 75093
Telephone: 972-398-9111
Attorney for Netwatch Solutions, Inc.

Motion to Compel and Motion for Continuance
February 13, 2017

1 presented to you at the last hearing. I sent to the
2 membership because Mr. Beasley wants to take witness
3 statements from our members who are Defendants. When
4 we told him that they were defended by attorneys, he
5 says he doesn't care. He can just send these out.

6 Also --

7 MS. GARCIA: He can send out e-mails
8 to other members. This went out --

9 MR. DAVIS: He can.

10 MS. GARCIA: This went out at 12:29
11 a.m. on Friday, February 10th.

12 MR. VOGEL: To a former board member.

13 MS. GARCIA: To former board member.

14 MR. VOGEL: He could -- in spite of
15 the fact that we've advised them and you read the
16 e-mail I sent to the membership, that if he wants to
17 talk to them, we have -- they have the right to have
18 an attorney present. He's trying to go around the
19 rules and communicate.

20 THE COURT: Well, let's do this. With
21 respect to the scheduling order, I think that y'all
22 can come to an agreement on the date. We'll do 30
23 days to add parties. If there's any -- and I don't
24 know what has happened. This is all being given to
25 me piecemeal. If there is any witness tampering by

Motion to Compel and Motion for Continuance
February 13, 2017

anybody, this Court will have very little patience with it. I take the job of preserving this process very seriously. And I would just advise every one to move cautiously and learn the rules so that we don't intentionally or unintentionally speak to represented parties. That will not be tolerated by this court.

MS. GARCIA: I think the issue there, Your Honor, if I may be frank, is that Mr. Beasley refuses to acknowledge that the SIM membership is represented.

MR. BEASLEY: Can we address that, Your Honor?

THE COURT: Well --

MR. DAVIS: Why don't you let me address it?

MR. BEASLEY: Yes.

THE COURT: Everyone can have their own opinions and there are various ways of interpreting whether or not parties are represented. If you're being told by your opposing counsel that they represent the board members, former or current, because their acts or omissions could potentially give rise to liability, I would take them at their word for it and I would not go into the gray.

MR. DAVIS: I would too. I would ask

Motion to Compel and Motion for Continuance
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1 for it now. Are you saying you represent

2 individually all of them?

3 THE COURT: And you guys can have that
4 conversation outside the presence of the Court. I'm
5 certain that you-all can come to some determination
6 as to who's represented.

7 MR. BEASLEY: Your Honor --

8 THE COURT: Once that is made, I would
9 ask that everyone respect the process and not tamper
10 with any potential witnesses in this case.

11 MR. BEASLEY: In the tampering with
12 any potential witnesses, I think, Your Honor, you
13 clearly point out, and I do not disagree and have
14 agreed to their position that the board members are
15 represented by counsel. I have continually agreed
16 with that. I have wanted to talk with several board
17 members. They disagreed. And I have to take their
18 deposition with counsel. I've done that repeatedly.

19 What they have done and you ask about
20 tempering with witnesses -- may I approach and send
21 you -- give you a copy of the letter that Mr. Vogel
22 says he sent?

23 He has told -- that Defendants have
24 told the entire membership that I am not allowed
25 under Texas Rules of Civil Procedure to talk to them

Motion to Compel and Motion for Continuance
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[REDACTED]

1 about this lawsuit, and that is absolutely not true.
2 And that is witness tampering. It is to intimidate
3 my ability to talk to members to get their support,
4 to get a petition to stop all of this nonsense. And
5 it is clearly not in the rules of civil procedure.
6 And they have sent out -- if I can give you a copy,
7 Your Honor, a statement. [REDACTED]

8 THE COURT: I think I saw that
9 statement in the motion to compel that was read by
10 this court last week. [REDACTED]

11 MR. BEASLEY: There are two -- there
12 are several completely false statements. One that
13 says any attempts by Mr. Beasley to contact SIM DFW
14 members violates a Texas Rules of Civil Procedure
15 that preclude him from contacting members. That is
16 not any rule that says I can't talk to members. The
17 individual members are not represented. They are not
18 parties in this lawsuit. They are my friends. [REDACTED]

19 MR. VOGEL: Your Honor -- [REDACTED]

20 MR. BEASLEY: They are my colleagues,
21 Your Honor, and they have tampered with my ability.
22 I've contacted several members and they're afraid to
23 talk with me because they think I'm violating some
24 rule and it's witness tampering. The exact conduct
25 that you talked about. [REDACTED]

Motion to Compel and Motion for Continuance
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1 THE COURT: Okay. Let me --

2 MR. VOGEL: Your Honor --

3 THE COURT: -- allow Mr. Vogel to

4 respond.

5 MR. VOGEL: -- he sued the entire

6 chapter. He didn't sue the board. The title of the

7 case is Society of Information Management Dallas Area

8 Chapter. He sued every single member.

9 MR. BEASLEY: No. No, I didn't.

10 MR. VOGEL: That's what it says,

11 Your Honor.

12 MR. BEASLEY: No, it doesn't. It

13 doesn't --

14 MR. VOGEL: We have three hundred some

15 odd members. I've been a member since 2002,

16 Your Honor, and it's a social club. It's like a PTA.

17 This a PTA squabble about someone who violated the

18 rules. That's what this is. And here's trying to

19 harass our members, and it's not fair.

20 MR. BEASLEY: They're intimidating my

21 potential witnesses with a rule that --

22 THE COURT: Mr. Beasley, if you

23 need --

24 MR. BEASLEY: -- is not there.

25 THE COURT: -- to speak to the

Motion to Compel and Motion for Continuance
February 13, 2017

1 members, you need to do it in a proper deposition.
2 We're not going to do it this way.
3 MR. DAVIS: Your Honor.
4 THE COURT: Anything else?
5 MR. DAVIS: Your Honor, of course
6 we're going to comply with the Court's directive.
7 But there's 250 to 300 members who pay dues to this
8 organization. They are not involved in the decisions
9 here. They are not --
10 MR. VOGEL: They've been sued, though.
11 MR. DAVIS: Would you please let me
12 talk.
13 Basically, this is a corporate entity
14 just like any other corporate entity. I can bring
15 you replete authority that says that even if you're
16 sewing a corporation, you can go talk to all of the
17 employees as long as they're not involved in the
18 matters in play in the case or they're part of the
19 control group of the company.
20 THE COURT: Well, and --
21 MR. DAVIS: And by the way Mr. Beasley
22 is also not an attorney. He's not even subject to
23 those rules, but even if he were --
24 THE COURT: Okay. And let me just
25 stop you right there. Whether or not someone is in

Motion to Compel and Motion for Continuance
February 13, 2017

1 this court pro se or is represented by counsel, there
2 are rules that will be followed by this Court, and I
3 advise everyone to learn them.

4 MR. DAVIS: Agreed.

5 THE COURT: But to your point, though,
6 I understand. And I'm well -- I've very familiar
7 with the law. What I'm saying is, is if any of these
8 individuals that he's contacting are relevant to the
9 claims of liability that are asserted, meaning that
10 their acts or their omissions would be relevant to
11 claims being asserted, counsel has a right to say you
12 must speak through --

13 MR. DAVIS: I agree, Your Honor.

14 THE COURT: Because those particular
15 conversations could give rise to liability.

16 MR. DAVIS: And I agree with that.

17 THE COURT: If there is someone who
18 you believe does not fall within that Mr. Beasley --

19 MR. BEASLEY: Yes.

20 THE COURT: -- then you need to bring
21 that before me in a proper motion. I'm not going to
22 do it in this hearing right now.

23 MR. BEASLEY: Okay.

24 MR. DAVIS: Thank you, Your Honor.

25 THE COURT: Anything else?

February 13, 2017

1 STATE OF TEXAS

2 COUNTY OF DALLAS

3 I, Sheretta L. Martin, Official Court Reporter
4 in and for the 162nd District Court of Dallas, State
5 of Texas, do hereby certify that the above and
6 foregoing contains a true and correct transcription
7 of all portions of evidence and other proceedings
8 requested in writing by counsel for the parties to be
9 included in this volume of the Reporter's Record in
10 the above-styled and numbered cause, all of which
11 occurred in open court or in chambers and were
12 reported by me.

13 I further certify that this Reporter's Record of
14 the proceedings truly and correctly reflects the
15 exhibits, if any, offered by the respective parties.

16 I further certify that the total cost for the
17 preparation of this Reporter's Record is \$270.00 and
18 was paid/will be paid by Gordon & Rees.

19 WITNESS MY OFFICIAL HAND on this, the 26th day
20 of March, 2017.

21 Sheretta L. Martin, CSR

22 Sheretta L. Martin, CSR
23 Texas CSR 6678 Exp. 12/31/2017
24 Official Court Reporter
25 162nd Civil District Court
Dallas County, Texas
600 Commerce Street, #730C
Dallas, Texas 75202
Telephone: 214-653-6260

Sheretta L. Martin, CSR - 162nd Civil District Court
Phone: 214-653-6260
Email: slmartin@dallascounty.org

**PLAINTIFF'S FIRST REQUEST FOR PRODUCTION
OF DOCUMENTS TO DEFENDANT SIM DALLAS**

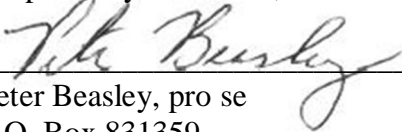
TO: Defendant, SIM DALLAS, 2677 Waterford Way, Carrollton, TX 75006.

Please take notice that request is hereby made by Peter Beasley, pursuant to Rule 196 of the Texas Rules of Civil Procedure, that SIM DALLAS, produce or permit Peter Beasley to inspect and copy or reproduce the items hereinafter designated on Exhibit "B" attached hereto.

Within 50 (fifty) days after service of these Requests for Production, you must serve a written response to the undersigned at P.O. Box 831359, Richardson, TX 75083-1359, including the items requested or stating with respect to each request that an inspection and copying or reproduction will be permitted as requested.

In the event a request is objected to, please specifically state (a) the legal or factual basis for the objection, and (b) the extent to which you refuse to comply with the request. Pursuant to Rule 193.2(b) of the Texas Rules of Civil Procedure, a party must comply with as much of the request to which the party has made no objection unless it is unreasonable under the circumstances to do so before obtaining a ruling on the objection.

Respectfully submitted,



Peter Beasley, pro se

P.O. Box 831359

Richardson, TX 75083-1359

(972) 365-1170, pbeasley@netwatchsolutions.com

DEFINITIONS AND INSTRUCTIONS

1. As used herein, the terms "SIM Dallas," "you" and "your" shall refer to the SIM Dallas Chapter, its members, officers, board members, assistants, attorneys, agents, and all other natural persons or business or legal entities acting or purporting to act for or on behalf of SIM Dallas, whether authorized to do so or not.

2. As used herein, the terms "President," "Vice President," and "Membership Chair" shall refer to the SIM Dallas Chapter President, Vice President, and Membership Chair who were elected in November 2014, and currently still serve in those roles for 2016.

3. As used herein, the term "document" shall mean all writings of every kind, source and authorship, both originals and all non-identical copies thereof, in your possession, custody, or control, or know by you to exist, irrespective of whether the writing is one intended for or transmitted internally by you, or intended for or transmitted to any other person or entity, including without limitation any government agency, department, administrative, or private entity or person. The term shall include handwritten, typewritten, printed, photocopied, photographic, or recorded matter. It shall include communications in words, symbols, pictures, sound recordings, films, tapes, and information stored in, or accessible through, computer or other information storage or retrieval systems, together with the codes and / or programming instructions and other materials necessary to understand and use such systems. For purposes of illustration and not limitation, the term shall include: affidavits; agendas; agreements; analyses; announcements; bills, statements, and other records of obligations and expenditures; books; brochures; bulletins; calendars; canceled checks, vouchers, receipts and other records of payments; charts or drawings; check registers; checkbooks; circulars; collateral files and contents; contracts; corporate bylaws; corporate charters; correspondence; credit files and contents; deeds of trust; deposit slips; diaries; drafts; files; guaranty agreements; instructions; invoices; ledgers, journals, balance sheets, profit and loss statements, and other sources of financial data; letters; logs, notes, or memoranda of telephonic or face-to-face conversation; manuals; memoranda of all kinds, to and from any persons, agencies, or entities; minutes; minute books; notes; notices; parts lists; papers; press releases; printed matter (including books, articles, speeches, and newspaper clippings); purchase orders; records; records of administrative, technical, and financial actions taken or recommended; reports; safety deposit boxes and contents and records of entry; schedules; security agreements; specifications; statements of bank accounts; statements; interviews; stock transfer ledgers; technical and engineering reports, evaluations, advice, recommendations, commentaries, conclusions, studies, test plans, manuals, procedures, data, reports, results, and conclusions; summaries, notes, and other records and recordings of any conferences, meetings, visits, statements, interviews or telephone conversations; telegrams; teletypes and other communications sent or received; transcripts of testimony; UCC instruments; work papers; and all other writings, the contents of which relate to, discuss, consider, or otherwise refer to the subject matter of the particular discovery requested.

4. In accordance with Tex. R. Civ. P. Rule 192.7, a document is deemed to be in your possession, custody or control if you either have physical possession of the item or have a right to possession of the item that is equal or superior to the person who has physical control of the item.

EXHIBIT F

5. "Person": The term "person" shall include individuals, associations, partnerships, corporations, and any other type of entity or institution whether formed for business purposes or any other purposes.

6. Any and all data or information which is in electronic or magnetic form should be produced in a reasonable manner.

USE OF DEFINITIONS

The use of any particular gender in the plural or singular number of the words defined under paragraph 1, "Definitions" is intended to include the appropriate gender or number as the text of any particular request for production of document may require.

TIME PERIOD

Unless specifically stated in a request for production of documents, all information herein requested is for the entire time period from January 1, 2015, through the date of production of documents requested herein.

EXHIBIT B

DOCUMENTS TO BE PRODUCED

1. All e-mails and communications to and from the SIM Dallas President and Vice President to and from the Membership Chair, and e-mails sent to other persons about the Membership Chair, about membership procedures, and all e-mails to the 2015 and 2016 Assistant Membership Chairs.
2. All e-mails and communications to and from the SIM Dallas President and Vice President concerning the April 2016 National Leaders Conference, including communications to the persons attending the conference, those requesting to attend the conference, those who are planning the conference, about the agenda of that meeting, and plans to make a presentation on the Dallas Chapter at that meeting.
3. Records on philanthropic grants of funds by SIM Dallas in 2015 and 2016, including payment records, commitment letters, application for funds, and thank you letters from recipients for gifts received.
4. The year-end financial records of SIM Dallas for 2015.
5. The final proposed and approved budget of SIM Dallas for 2016.
6. Records of any motions that were made by a Board member which the President or Vice President removed from the board meeting agenda.

EXHIBIT F

7. Records of any communications to board members directing them to not sign contracts or incur indebtedness on behalf of the corporation.
8. Records of any communications to board members or to any member of the corporation about being over-budget.
9. Records of any communications sent to any individuals to not communicate with the President.
10. Records of any communications sent to any board member or to any member of the corporation about how special interest groups should be managed, and where they should report into the board of directors.
11. Records of any communication that one Committee Chair transfer his budget to another Committee Chair, or for one Chair to get approval of their budget from another Chair.

From: Bob Bragalone
Sent: Sunday, May 08, 2016 9:06 PM
To: 'Jim Davis'
Cc: Adrienne Guarino; Soña Garcia
Subject: RE: Beasley v. SIM

Mr. Davis –

We received your notice of appearance as counsel. We cannot agree to remand, as that would be inappropriate on the facts and the law. More importantly, because you have reviewed the pleadings and presumably met with your client to learn the facts, you should know by now that the claims are utterly groundless and there is no basis in law or fact for any of them. Plaintiff was removed from his voluntary membership in SIM-DFW on April 19, 2016 by a unanimous vote of the Executive Committee. He has no grounds to claim breach of fiduciary duty, malicious prosecution, or a right to recovery under the Declaratory Judgment Act. And there was never a basis to sue Janis O'Bryan individually. That was done out of spite and is the epitome of a sanctionable act.

Moreover, you may not be aware that Mr. Beasley was represented in this litigation in early April. That lawyer was gone within days of his appearance. I can assure you that my clients have no tolerance for this nonsense. The organization has spent a considerable amount of fees dealing with Plaintiff's two frivolous state court actions, successive failed attempts to secure injunctive relief, dozens of inappropriate email communications to our clients, and otherwise responding to the frivolous claims. Judge Fitzwater, Judge Kinkeade, Judge Stickney, Judge McCoy Purdy, and Judge Fifer all have borne witness to the expense of these claims in various forums.

And while some federal judges may be reluctant to sanction a *pro se* Plaintiff under Rule 11, your client is no stranger to litigation. We encourage you to investigate the large number of frivolous lawsuits he has filed. By one estimate, he has been involved in as many 18 lawsuits since 1990. Most or all of them were resolved against him. The common theme is that he engages in procedural jockeying when he cannot convince a court of his right to recovery, filing successive lawsuits and making complaints (including criminal complaints) against judges. On at least one occasion, he brought claims against his own attorney in an attempt to manipulate the legal system. It is not a pretty picture. Clearly, the Court will see him as the vexatious litigant that he is and any grace a normal *pro se* Plaintiff might be afforded likely will not be extended here.

More importantly, he is no longer *pro se*. As you know, by filing your appearance, **you have assumed the Rule 11 obligation and are now sponsoring these claims.** For each day that passes that you do not withdraw them, my client continues to incur fees. We believe that Judge Fitzwater will see this as a meritless complaint, exercise his supplemental jurisdiction, and dismiss the case in its entirety. So your request for extension merely delays the inevitable.

Jim, I do not believe that you and I have met. Please understand that none of this is intended to be unprofessional or abrasive. I will afford you all professional courtesies and offer you the benefit of the doubt wherever appropriate. For example, I readily acknowledge that some of what is written above might be news to you. But you are clearly on notice now. And I must represent my clients zealously and they have already incurred thousands to defend this nonsense. Therefore, **kindly be advised that if my client is successful in its dispositive motion, we will seek all attorney's fees incurred to date in all state and federal actions in the form of a Motion for Sanctions against both Plaintiff and his counsel.** Your client's repeated efforts to secure a TRO in this case have already earned him one admonishment from Judge Fifer. It is frankly in your client's best interest to dismiss his claims and walk away. A dispositive motion granted will trigger a Rule 11 Motion for Sanctions, which puts both you and your client at risk.

We look forward to receiving your notice of dismissal.

BOB BRAGALONE | PARTNER

GORDON & REES

SCULLY MANSUKHANI

2100 Ross Avenue, Suite 2800

Dallas, TX 75201

D: 214-231-4714 | C: 214-557-2622 | F: 214-461-4053

3D/International Tower

1900 West Loop South, Suite 1000

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bbragalone@gordonrees.com

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Illinois • Maryland • Massachusetts • Missouri • Nevada • New Jersey • New York
North Carolina • Oregon • Pennsylvania • South Carolina • South Dakota • Texas
Virginia • Washington • Washington, D.C.

www.gordonrees.com

 Please consider the environment before printing this email.

From: Jim Davis [<mailto:jdavis@dallasbusinesslaw.com>]

Sent: Friday, May 06, 2016 4:49 PM

To: Bob Bragalone; Soña Garcia

Cc: Adrienne Guarino

Subject: Beasley v. SIM

Dear Mr. Bragalone and Ms. Garcia:

The law firm of Ferguson, Braswell & Fraser, P.C. has been retained to represent Mr. Beasley in the above-referenced matter. Please direct all future communications, pleadings, etc., related to this dispute to my attention.

By now, you should have received notice from the court that Mr. Beasley has voluntarily dismissed his claims in connection with Case No. 3:16-cv-01019-D-BF. This should render moot your proposed motion to consolidate this case with Case No. 3:16-cv-00918-D.

We have reviewed the pleadings in Case No. 3:16-cv-00918-D and we believe it is clear the matter should be remanded to state court. This is a dispute between two Texas citizens over the proper construction and application of the bylaws of a Texas nonprofit corporation and related tort claims under Texas law. Notwithstanding Mr. Beasley's original pleading, which purported to state a facially deficient claim under the Sarbanes-Oxley Act, there is no federal issue to be resolved by the United States District Court. While it may be true (although I am not certain I agree) that the court retains supplemental jurisdiction over the subject matter of this dispute based on the face of the original pleading, we believe Judge Fitzwater in a sound exercise of his discretion should remand and likely will remand the case to state court. The case is only a few weeks old, there have been no substantive rulings, no discovery, and no substantial investment of time and effort by either the defendant or the Court. Further, remand to state court will not work any undue hardship on the defendants, as the case will remain in Dallas and will be resolved in a timely manner by a state court judge. Under these circumstances, we ask that you agree to remand the case to state court. Then, we can spend our respective clients' time and money on resolution of the underlying dispute, rather than on procedural jockeying, etc.

EXHIBIT G

If you will not agree to remand this matter to state court, we intend to file a motion for an extension of time in which to respond to your client's motion to dismiss. We will ask the court to extend the deadline to 14 days after the court rules on the pending motion to remand. Obviously, we don't want to spend time and money to prepare a response to a 12(b)(6) motion until the court has determined whether or not it will retain jurisdiction over this dispute. Please let us know as soon as possible whether you will oppose this motion.

Along the same lines, we believe it would make sense to ask the court to extend the deadline for submission of a proposed joint scheduling order 5 days after the court's ruling on the motion to remand.

Thank you.

James E. Davis

Shareholder

Ferguson, Braswell & Fraser, PC | 2500 Dallas Parkway, Suite 501 | Plano, TX 75093

Tel 972.378.9111 | jdavis@dallasbusinesslaw.com | www.DallasBusinessLaw.com

CONFIDENTIALITY NOTICE: This e-mail transmission (and/or the attachments accompanying it) may contain confidential information belonging to the sender which is protected by attorney-client privilege and is intended only for the use of the intended recipient. If you have received this transmission in error, please immediately notify the sender and delete it from your system.

EXHIBIT G

BOB BRAGALONE
BBRAGALONE@GORDONREES.COM
DIRECT DIAL: (214) 231-4714

GORDON & REES
SCULLY MANSUKHANI

Admitted in: Texas
Oklahoma

ATTORNEYS AT LAW
2100 ROSS AVENUE, SUITE 2800
DALLAS, TX 75201
PHONE: (214) 231-4660
FAX: (214) 461-4053
WWW.GORDONREES.COM

October 25, 2016

Via E-Mail: kbwiggins@whitewiggins.com

Kevin B. Wiggins
WHITE & WIGGINS, L.L.P.
1700 Pacific Avenue, Suite 3740
Dallas, Texas 75201

Re: *Peter Beasley v Society of Information Management, Dallas Area Chapter, Janis O'Bryan, Nellson Burns, Mike Brown, Joan Holman, Patrick Bouldin and Larry Freed, in the 162nd Judicial District Court, Dallas County, Texas*
Cause No. DC-16-03141

Dear Mr. Wiggins,

I write to advise you of some serious violations of which I think you should be aware. If you move forward with filing a notice of appearance, you will be Mr. Beasley's **third** attorney in this case. If you appear, you are charged with knowledge of the pleadings and facts and claims. The claims are utterly groundless and there is no basis in law or fact for any of them. Mr. Beasley was removed from his voluntary membership in SIM-DFW on April 19, 2016 by a unanimous vote of those present at the Special Meeting of the Executive Committee. Mr. Beasley was invited to attend, but chose not to attend.

Judge O'Neill carefully considered his arguments regarding lack of due process in a lengthy hearing in August and ruled that Mr. Beasley was afforded full due process during the removal process and therefore, the longstanding Texas doctrine of judicial non-intervention applied to prevent Mr. Beasley's reinstatement as a member in the Chapter.

With regard to the remaining claims, before Mr. Beasley's summary judgment motion was denied, he had no grounds to claim breach of fiduciary duty, malicious prosecution, or a right to recover under the Declaratory Judgment Act. But now that it has been judicially established that Mr. Beasley has no right to reinstatement, Mr. Beasley's claims are moot.

Even more troubling are his personal attacks on his former colleagues. There was never a basis to sue Janis O'Bryan, Nellson Burns, Mike Brown, Larry Freed, Patrick Bouldin, and Joan Holman individually. That was done out of spite and is the epitome of a sanctionable act.

Kevin Wiggins
October 25, 2016
Page 2

You also referenced a possible amendment of Mr. Beasley's Petition. You should know that this would be the would be at least the sixth amended petition filed in this matter in either District Court, County Court at Law, or Federal Court, none of which has been legally or factually supported.

Moreover, you may not be aware that Mr. Beasley was represented in this litigation in early April and then again in May. Mr. Beasley's first lawyer was gone within days of his appearance. Mr. Beasley's second attorney lasted less than a month before filing a Motion to Withdraw. I can assure you that my clients have no tolerance for this nonsense. The organization has spent a considerable amount of fees dealing with Plaintiff's two frivolous state court actions, successive failed attempts to secure injunctive relief, dozens of inappropriate email communications to our clients, and otherwise responding to the baseless claims. Judge Fitzwater, Judge Kinkeade, Judge Stickney, Judge McCoy Purdy, Judge Fifer, and now Judge O'Neill all have borne witness to the expense of these claims in various forums.

Additionally, while some judges may be reluctant to sanction a *pro se* Plaintiff under Rule 13, your client is no stranger to litigation. We encourage you to investigate the large number of frivolous lawsuits he has filed. By one estimate, he has been involved in as many 30 lawsuits since 1990. Most or all of them were resolved against him. The common theme is that he engages in procedural jockeying when he cannot convince a court of his right to recovery, filing successive lawsuits, endless appeals, and making complaints (including criminal complaints) against judges. On at least one occasion, he brought claims against his own attorney in an attempt to manipulate the legal system. It is not a pretty picture.

You should also be aware that Mr. Beasley recently lost an appeal from Judge Smith's Court in the Court of Appeals Fifth District. I've taken the liberty of attaching the memorandum opinion for your review, but specifically call your attention to Judge Smith's review of Mr. Beasley's litigation behavior on pages 2-4. While that case involved different litigants, the facts were remarkably similar, after failing to convince members of a social club to run an activity the way he wanted, Mr. Beasley sued the organizers of the social club and sought damages. What is notable here is the following: Mr. Beasley is no stranger to the courthouse and it is clear that the Court will see him as the vexatious litigant that he is and any grace a normal *pro se* Plaintiff might be afforded likely will not be extended here.

More importantly, he is no longer *pro se*. As you know, by filing your appearance, **you will assume the Rule 13 obligation and will be sponsoring the frivolous claims.** For each day that passes that you do not withdraw them, my clients continue to incur fees. We believe that Judge O'Neill, or his successor, will see this as a meritless complaint and grant Defendants' Motion for Summary Judgment. So any attempt to re-plead the case, extend discovery, or further litigate Mr. Beasley's claims will only delay the inevitable, and increase my clients' fees.

Kevin, I do not believe that you and I have met. Please understand that none of this is intended to be unprofessional or abrasive. I will afford you all professional courtesies and offer you the benefit of the doubt wherever appropriate. For example, I readily acknowledge that some of what is written above might be news to you. But you are clearly on notice now. And I must represent my clients zealously and they have already incurred thousands to defend this nonsense.

Kevin Wiggins
October 25, 2016
Page 3

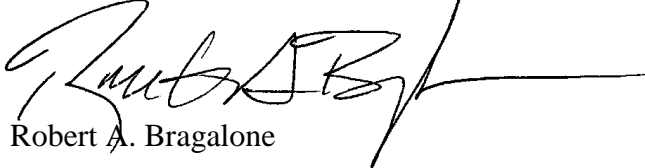
Therefore, **kindly be advised that if my clients are successful on dispositive motion, we will seek all attorney's fees incurred to date in all state and federal actions in the form of a Motion for Sanctions against both Plaintiff and his counsel.** Your client's repeated efforts to secure a TRO in this case earned him an admonishment from Judge Fifer. Judge O'Neill denied his Motion for Partial Summary Judgment seeking re-instatement in the Chapter, and then Mr. Beasley abandoned his efforts to secure a mandatory injunction *during the hearing* causing my clients to incur fees in responding to and preparing for an evidentiary hearing which never occurred. And Mr. Beasley's response was to file a baseless motion for permissive appeal on the denial of his summary judgment and then during the hearing threaten Judge O'Neill that if his motion was denied, he'd simply seek to appeal the ruling on the mandatory injunction that he had abandoned!

It is frankly in your client's best interest to dismiss his claims and walk away. A dispositive motion granted will trigger a Rule 13 Motion for Sanctions, which puts both you and your client at risk.

We look forward to receiving your notice of dismissal.

Sincerely,

GORDON & REES LLP



Robert A. Bragalone

RAB/SJG/dh
Attachment

AFFIRMED; and Opinion Filed September 20, 2016.



**In The
Court of Appeals
Fifth District of Texas at Dallas**

No. 05-15-01156-CV

PETER BEASLEY, Appellant

V.

SEABRUM RICHARDSON AND LAMONT ALDRIDGE, Appellees

**On Appeal from the 192nd Judicial District Court
Dallas County, Texas
Trial Court Cause No. DC-13-13433**

MEMORANDUM OPINION

Before Justices Lang, Myers, and Evans
Opinion by Justice Evans

Appellant Peter Beasley asserts that the trial court committed error by dismissing the case with prejudice. Beasley also asserts that the trial court abused its discretion for numerous reasons including, but not limited to, failing to grant a hearing on a temporary restraining order, refusing to award attorneys' fees, and failing to grant a continuance. We affirm.

BACKGROUND

On November 12, 2013, Beasley filed a lawsuit against Richardson. Beasley added Aldridge as a defendant in his second amended petition.

The lawsuit proceeded to trial on June 8, 2015, and all parties appeared pro se before the trial court. After a day and a half, Beasley concluded his presentation of evidence to the jury.

EXHIBIT G

After the lunch break on June 9, 2015, and before the return of the jury, the following exchange took place:

[Court]: Do I have any motions or anything the lawyers -- or the parties need to visit with me about?

[Beasley]: I would like to nonsuit also.

[Court]: Who do you want to nonsuit?

[Beasley]: My entire case. I -- I understand they have a pending case and I know that doesn't do anything against those. I'm willing to do that.

[Court]: Is this all you wanted do [sic]?

[Beasley]: No, sir.

[Court]: Is drag people through this process and then finally say, well, I'm through?

[Court]: You have already rested your case and if you -- it's too late to nonsuit. If you want to dismiss your lawsuit, you can dismiss your lawsuit with prejudice.

[Beasley]: I understand that. That is what I mean, I guess. Whatever that process is.

[Court]: You have already rested.

[Beasley]: Yes. I understand.

[Aldridge]: Your Honor, I motion the Court for the directed verdict. Mr. Beasley --

[Court]: Well, he's already dismissed his case. He's dismissed everything against you, after he rested, though.

[Court]: This poor Jury had to sit here for a day and a half listening to you just vent, I guess. Because your life didn't work out very well on whatever birthday it was. I accept your nonsuit. Don, go get the Jury.

EXHIBIT G

[Court]: Mr. Beasley, I just truly don't understand it. And I think I just -- I'm inviting you to give some explanation as to what you had in mind, have in mind.

[Beasley]: Yes, Your Honor.

[Court]: How we got to this point?

[Beasley]: Yes, Your Honor.

[Court]: We're on the record, so.

[Beasley]: Yes.

[Court]: I just want you to be aware of that.

[Beasley]: I understand.

[Court]: I'm not trying to trick you, either.

[Beasley]: I appreciate the opportunity, Your Honor. I truly do. I felt that at some point I had to try and win or lose. It seemed that if I nonsuited or gave in, it becomes frivolous, as I'm doing now. I had to try and prove my case and I can't find my pieces of paper. I'm disorganized. I'm no [sic] sleep. I -- I look horrible, fumbling. So I wasn't able to do it. I felt probably when Mr. Richardson started incurring attorney's fees, I probably should have either quit because there's now going to be real costs in this, or eventually I think there was a walk away option. But, I thought my claims have merit, but I cannot -- it's too overwhelming for me. I'm not trying to make excuses. I'm just -- I can't. I haven't been able to do it. I thought I could come in and try to show there's some merit here. I have horribly not been able to do that. And Mr. Richardson said there's an internal power struggle and that email, I'm sick of emails. And I should not have -- probably at the argument stage with Mr. Richardson, that was a bad time for us both. That was probably -- just listening to, you walking back through that, I should have withdrawn from it then instead of still going forward. Maybe he should have been before I paid the other 2600. A lot of places I made mistakes and should have gotten out of it. And at some point, got dug in. One, if I quit, it's just frivolous and so I had to come in and try win and I just to [sic] couldn't do it.

[Court]: Welcome back, everybody. On the record, following -- everybody can be seated. Thank you. Following the evidence that you heard, ladies and gentlemen, and following Mr. Beasley resting, passing the case to the Defendants, he came back here after lunch and Mr. Beasley has stood up and he has filed a motion to dismiss his lawsuit. So he's dismissed his lawsuit. And there were counter claims pending, but other than the ones dealing with questions for the Court, that being abuse of process and frivolous lawsuit and bad faith lawsuits. Are you withdrawing the other ones, Mr. Aldridge?

[Aldridge]: Yes, Your Honor.

[Richardson]: Yes.

[Court]: Is that right?

[Aldridge]: Yes, Your Honor.

On June 12, 2015, the trial court entered an order of dismissal with prejudice of all of Beasley's causes of actions and claims against Richardson and Aldridge. On August 20, 2015, the trial court signed a final judgment which denied Richardson's motion for sanctions and counterclaims and assessed costs incurred against the party incurring same. On September 21, 2015, Beasley filed a notice of appeal.

ANALYSIS

Although we construe pro se pleadings and briefs liberally, we hold pro se litigants to the same standards as licensed attorneys and require them to comply with the applicable laws and rules of procedure. *In re N.E.B.*, 251 S.W.3d 211, 211–12 (Tex. App.—Dallas 2008, no pet.); *see also Gonzalez v. VATR Const. LLC*, 418 S.W.3d 777, 784 (Tex. App.—Dallas 2013, no pet.) (“Appellate courts must construe briefing requirements reasonably and liberally, but a party asserting error on appeal still must put forth some specific argument and analysis showing that the record and the law support his contention.”). To do otherwise would give a pro se litigant an unfair advantage over a litigant who is represented by counsel. *In re N.E.B.*, 251 S.W.3d at 212.

EXHIBIT G

As stated above, Beasley moved to dismiss his claims with prejudice. The trial court granted his motion and dismissed the claims with prejudice. Although Beasley neither objected to the dismissal nor moved for a new trial following the dismissal, he filed an appeal asserting, among other things, that the trial court erred by dismissing his case. We disagree.

Error in dismissing a case with prejudice cannot be raised for the first time on appeal and must be presented to the trial court. *See El Paso Pipe & Supply Co. v. Mountain States Leasing, Inc.*, 617 S.W.2d 189, 190 (Tex. 1981); *Bird v. Kornman*, 152 S.W.3d 154, 161 (Tex. App.—Dallas 2004, pet. denied). To preserve a complaint of error in a judgment for appellate review, Beasley was required to inform the trial court of his objection by a post-judgment motion to amend or correct the judgment or a motion for new trial. *Bird*, 152 S.W.3d at 161; *Arthur's Garage, Inc. v. Racal-Chubb Sec. Sys., Inc.*, 997 S.W.2d 803, 816 (Tex. App.—Dallas 2004, no pet.). As Beasley failed to preserve his objection to the judgment by filing a post-judgment motion or a motion for new trial, we conclude that the trial court did not err by dismissing the case with prejudice. As we have disposed of this appeal as stated above, it is unnecessary to address any of the additional issues raised by Beasley in his brief.

CONCLUSION

We resolve Beasley's issues against him and affirm the trial court's judgment.

/David Evans/
DAVID EVANS
JUSTICE

151156F.P05



**Court of Appeals
Fifth District of Texas at Dallas**

JUDGMENT

PETER BEASLEY, Appellant

No. 05-15-01156-CV V.

SEABRUM RICHARDSON AND
LAMONT ALDRIDGE, Appellees

On Appeal from the 192nd Judicial District
Court, Dallas County, Texas
Trial Court Cause No. DC-13-13433.
Opinion delivered by Justice Evans.
Justices Lang and Myers participating.

In accordance with this Court's opinion of this date, the judgment of the trial court is **AFFIRMED**.

It is **ORDERED** that appellees SEABRUM RICHARDSON AND LAMONT ALDRIDGE recover their costs of this appeal from appellant PETER BEASLEY.

Judgment entered this 20th day of September, 2016.

SOÑA J. GARCIA
SJGARCIA@GORDONREES.COM
DIRECT DIAL: (214) 231-4741

GORDON & REES
SCULLY MANSUKHANI

ATTORNEYS AT LAW
2100 ROSS AVENUE, SUITE 2800
DALLAS, TX 75201
PHONE: (214) 231-4660
FAX: (214) 461-4053
WWW.GORDONREES.COM

December 29, 2016

VIA EMAIL: DJONES@DANIELBJONES.COM

Daniel B. Jones
LAW OFFICES OF DANIEL B. JONES
555 Republic Dr., Suite 111
Plano, TX 75074-5427

Re: *Peter Beasley v Society of Information Management, Dallas Area Chapter, Janis O'Bryan, and Nellson Burns*, in the 162nd Judicial District Court, Dallas County, Texas
Cause No. DC-16-03141

Dear Dan:

As you are duty bound to do, please share this letter with your client.

I received your email requesting that Defendants reconsider their position on your Motion to Withdraw and all the associated filings and emails. We have more than good cause to oppose it. Your recitation of the rules of disciplinary conduct notwithstanding, the fact remains that Texas procedure requires an attorney withdrawing to file a Motion and secure the permission of the Court, even when terminated by the client. This is because the Court is always in a position to evaluate the facts and circumstances of the representation prior to signing an order granting withdrawal.

As you are aware, Mr. Beasley began this case as a *pro se* litigant in March of 2016. In 9 months, he has been represented at least four separate times, including ***twice by you***. Oddly, your first representation of him lasted a mere four days. Since then, he retained Jim Davis and then later Kevin Wiggins, who — while never having made an official appearance as counsel — managed successfully to delay Mr. Beasley's deposition until Mr. Beasley was able to re-engage your services. What has become clear is that Mr. Beasley uses the judicial process, and indeed even the ethical obligations of members of the Bar, to effectuate his plan of holding the Court, SIM-DFW, Ms. O'Bryan, and Mr. Burns all hostage while he toys with the judicial system — and this all because SIM-DFW's Board did not find merit in his budget proposals for a year that is now over.

Daniel B. Jones
December 29, 2016
Page 2

Mr. Beasley's pattern has been to hire a lawyer when he recognizes that the continued existence of his case against my clients is at risk. He knows, after decades of experience as a *pro se* litigant, that courts and judges are likely to provide him with just enough consideration to allow his claims to continue when they are unsupportable on their face. In fact, putting aside how many attorneys Mr. Beasley has retained and then terminated, through circumstance, procedural jockeying, and gamesmanship, he has managed in merely 9 months to have his claims presented to three district court judges, one county court judge, two federal court judges, and a federal court magistrate. In each court, his claims were frivolous. And his claims against Ms. O'Bryan and Mr. Burns are the very definition of sanctionable, given that they are not only meritless but brought with an improper purpose, motivated by spite and ill will, and designed to harass.

The fact that even now Mr. Beasley continues to argue that he was not afforded the necessary due process with regard to the April 19, 2016 special meeting to consider his expulsion is reprehensible in light of the transcript from the August 15, 2016 hearing and Judge O'Neill's recorded finding that Mr. Beasley not only received the necessary due process, but that the notice received was adequate, and that Mr. Beasley not only had an opportunity to respond but in fact did respond in his own defense via email. The facts are clear that he elected not to attend the meeting as a gamble, and his tall tale of being unable to find the office suite occupied by a well-known Dallas law firm in this GPS era is not only laughable, but sadly, is reflective of the misguided hubris he brought to SIM-DFW.

While I am not surprised your representation was terminated, I am both surprised and troubled that Mr. Beasley's near immediate response was to renege on the agreements you and I reached following the December 21 hearing, to suggest that you had misrepresented your authority to make such agreements during that meeting, and to use your then-forthcoming Motion to Withdraw as a threat to force my clients to respond to never-before-served discovery, re-answer discovery, and agree to extend deadlines that have passed. This behavior by Mr. Beasley is exactly the type of behavior that we believe the Court would have considered in contemplating whether the judicial system should be made to tolerate Mr. Beasley representing himself without guidance of a member of the Bar.

Our objection to your Motion to Withdraw is not in disregard of the typical professional courtesies. Having represented Mr. Beasley on more than one occasion in the past, you are familiar with Mr. Beasley's questionable litigation tactics. The revolving door of attorneys has increased costs to my clients and forced this litigation to extend far longer than necessary. If, in the future, you are again persuaded to represent Mr. Beasley in this lawsuit be advised that we will immediately file a Rule 13 Motion. Regardless of your current status as Mr. Beasley's now twice-terminated attorney, you are well aware of the facts of this case, having now had a full opportunity to review the file, including the transcript of the August 15, 2016 hearing. Thus by re-appearing as counsel of record you will be again sponsoring claims which you should know to be frivolous given that they were frivolous the day they were first filed. As you know, your anticipated withdrawal does not insulate you from Rule 13 liability which the Court will one day determine.

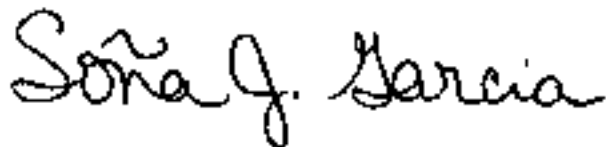
Daniel B. Jones
December 29, 2016
Page 3

Comment 5 to D.R 1.15 states that a client seeking to discharge his attorney “should be given full explanation of the consequences.” His claims should be dismissed immediately. However, assuming he refuses to do so, please explain to Mr. Beasley that a dispositive motion granted in my clients’ favor will trigger a Rule 13 Motion for Sanctions against him and all of his former counsel. From his vast litigation history, I know that he has personal experience with this potential consequence.

Attached is the signed Agreed Order. You may notify the Court that Defendants have withdrawn their objection.

Sincerely,

GORDON & REES LLP

A handwritten signature in black ink that reads "Soña J. Garcia". The signature is written in a cursive, flowing style.

Soña J. Garcia

SJG:dh

EXHIBIT H

From: Vogel, Peter <pvogel@gardere.com>
Sent: Thursday, March 02, 2017 5:54 AM
To: Peter Beasley (pbeasley@netwatchsolutions.com)
Cc: Soña Garcia; 'Jim Davis'
Subject: RE: Disqualify - Vogel

Mr. Beasley,

Based on your March 1, 2017 email I refuse to withdraw as counsel to SIM DFW in this lawsuit.

Since I refuse to withdraw I assume you plan to file such a motion for my disqualification which I believe is ill-advised and frivolous since by your own admission you know have known that I have represented SIM DFW since at least 2012. As the lawyer representing SIM DFW I represent the entire Chapter, not you or any other member individually.

Your email explanation to justify your claim that I should be disqualified is without legal substance as I am not in violation of Rule 1.06 (Texas Rules of Disciplinary Rules of Professional Conduct). Your email claims for my disqualification appear to fall into three categories, so I provide the following explanations about why your request for me to withdraw from representing SIM DFW are without legal merit:

PETER BEASLEY'S CLAIM FOR THE DISQUALIFICATION OF PETER VOGEL	REASONS WHY THERE ARE NO LEGAL BASES FOR PETER BEASLEY TO FILE A MOTION FOR THE DISQUALIFICATION OF PETER VOGEL
<i>#1 Peter Vogel gave Peter Beasley legal advice about SIM DFW raised by Peter Beasley.</i>	There was never an attorney-client relationship between Peter Vogel and Peter Beasley since Peter Vogel represented the SIM DFW Chapter, but Peter Vogel has never represented an individual member or officer, including Peter Beasley.
<i>#2 On April 4, 2016 Peter Vogel met with SIM DFW representatives and Peter Beasley was not in attendance.</i>	The April 4, 2016 meeting was to discuss this lawsuit with representatives of SIM DFW and such discussions were attorney-client privileged.
<i>#3 On March 20, 2016 Peter Vogel gave Peter Beasley legal advice to settle the lawsuit.</i>	The March 20, 2016 email Peter Vogel sent to Peter Beasley (copy below), expressly stated that Peter Vogel represented SIM DFW and not Peter Beasley, and Peter Vogel did not give Peter Beasley any legal advice in that email.

Vogel, Peter

From: Vogel, Peter
Sent: Monday, March 21, 2016 4:43 PM
To: pbeasley@netwatchsolutions.com
Subject: Meeting on Thursday, March 24 from 8-10am
Attachments: image001.png

RE: *Peter Beasley v. Society of Information Management, Dallas Area Chapter*, 162nd District Court, Dallas County Texas, Cause No. DC-16-03141 (the "Lawsuit")

Peter,

The DFW SIM Chapter retained me to represent them in the Lawsuit you filed on March 17, 2016, and I hope you can come to my office to meet with Chapter leadership from 8-10am this Thursday, March 24, 2016 so that we can attempt to resolve the issues in dispute.

Please confirm your availability as soon as practical, thanks.

I am hopeful that we can settle the Lawsuit on Thursday.

Peter

Peter S. Vogel

Partner

t 214.999.4422 f 214.999.3422

3000 Thanksgiving Tower, 1601 Elm Street, Dallas, Texas 75201

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From: Peter Beasley [mailto:pbeasley@netwatchsolutions.com]

Sent: Wednesday, March 01, 2017 6:36 PM

To: Vogel, Peter; 'Soña Garcia'

Cc: 'Jim Davis'

Subject: RE: Disqualify - Vogel

Mr. Vogel, I'm a little surprised at you asking for more details.

EXHIBIT H

- By your own admission, you represent the board of SIM Dallas, of which I've been a member since 2012.
- I consulted with you, over several in-person, phone, and e-mail exchanges over several years with you providing legal opinions and specific advice on how I discharged my duties. I you have provided legal consultations with me likely more than with any other SIM member – prior to this lawsuit.
 - I had regarded you as a colleague and confidant, and in our many interactions over several years, you have come to know me and my persona. In working together, you have specific personal information on me. Your past role as my legal advisor bars you from serving in a capacity against my interests.
 - In particular, you gave me legal advice on what amounts of funds the corporation can legitimately retain and maintain its non-profit status. And as you know, I've made claims against SIM alleging inappropriate hoarding of year-over-year retained earnings assets. You cannot give me legal advice on the subject, but then represent interests against me who you have advised
 - An example of the conflict you face can be seen in your actions on April 4, 2016. The board of directors of a corporation are charged with its management, BOC § 21.401, but the board's authority must be exercised as a group— I'm finding case-law that individual directors have no authority apart from the board. Irrespective of your obligation to represent all of the directors, discovery has shown you apparently held a meeting of the board of directors on April 4, 2016, but excluded me. This behavior on your part seems to demonstrate a clear conflict of interest and likely violation of your ethical duties where you have interacted and represented me in the past, but even though you claim you represent me (as all board or all members), you excluded me. "Communications with corporate counsel during a director's tenure on the board cannot be privileged as to him because, as a matter of law, such communications could not legally have been intended to be kept confidential from him." The corporation is prohibited from asserting the attorney-client privilege as to information to which a director is entitled. By you accepting or refusing to decline representation, you seem to put yourself in ethical dilemma of conflict of interest.
- You contend you represent all members of SIM, and without any doubt, I've been a member for several years. There was the period after the lawsuit was filed and before the alleged expulsion where you gave me advice on how to resolve the lawsuit – recommending I meet with Burns & Freed. You gave me this legal advice – when you admit you represented my legal interests.

There are many legal holdings that, due to ethical considerations, bar attorneys from representing litigants who are opposed to individuals who the attorney has represented before. Most ethical firms perform "conflicts checks" and steer well clear of any appearance or actual conflicts. There are legal holdings which discredit attorneys and their law firms in attempting to perform such dual representation roles and order the corporations to retain independent counsel (i.e. Gordon Rees). Your participation as counsel seems to clearly violate Texas Disciplinary Rules 1.06, and others.

- The bar on you personally is mandated also because you are and have been a member of SIM. You have an individual personal interest in the litigation.

Please let me know your decision to voluntarily withdraw.

Peter

From: Vogel, Peter [mailto:pvogel@gardere.com]
Sent: Monday, February 27, 2017 4:49 PM
To: 'pbeasley@netwatchsolutions.com'; Soñia Garcia
Cc: Jim Davis
Subject: RE: Disqualify - Vogel

Mr. Beasley,

If you want me to consider withdrawing from representing SIM DFW I need for you to tell me what legal services do you believe I provided you, and on what dates I provided these legal services to you.

Please send me a response at your earliest convenience so I can properly understand what you meant by the expression that I "previously advised me" in your email earlier today.

Peter S. Vogel

Partner

t 214.999.4422 f 214.999.3422

2021 McKinney Avenue, Suite 1600, Dallas, Texas 75201

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EXHIBIT H

From: Peter Beasley [<mailto:pbeasley@netwatchsolutions.com>]

Sent: Monday, February 27, 2017 11:07 AM

To: Vogel, Peter; Soña Garcia

Cc: Jim Davis

Subject: Disqualify - Vogel

Mrs. Garcia, Mr. Vogel; I am contacting you to hold a conference.

I believe Mr. Vogel should be disqualified from appearing as counsel in this matter – as

- 1) he has previously advised me previously, and because
- 2) he is a member of SIM, and therefore has an interest in the subject matter of the lawsuit.

I would, of course, not oppose representation from another attorney from Gardere.

Do you all agree?

Peter Beasley, CTO

Netwatch Solutions, Inc.

www.netwatchsolutions.com

214-446-8486 ext. 105 (o)

972-365-1170 (c)

EXHIBIT 4

EXHIBIT C